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Review Conference on the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks
New York, 24-28 May 2010

Report submitted to the resumed Review Conference in accordance with paragraph 32 of General Assembly resolution 63/112 to assist it in discharging its mandate under article 36, paragraph 2, of the Agreement

Report of the Secretary-General

Summary

The present report has been prepared in response to the request made to the Secretary-General, in paragraph 32 of General Assembly resolution 63/112, to submit to the resumed Review Conference on the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks an updated comprehensive report, prepared in cooperation with the Food and Agriculture Organization of the United Nations (FAO), to assist the Conference in discharging its mandate under article 36, paragraph 2, of the Agreement. It is based on information provided by States and regional fisheries management organizations and arrangements and other regional fisheries bodies, as well as FAO. Pursuant to paragraph 33 of General Assembly resolution 64/72, the report takes into account the specific guidance provided by the eighth round of informal consultations of States Parties to the Agreement. It contains an overview of the status and trends of straddling fish stocks and highly migratory fish stocks, discrete high seas stocks and non-target, associated and dependent species; review and analysis of the extent to which the recommendations adopted by the Review Conference in 2006 have been implemented by States and regional fisheries management organizations and arrangements, including a description of relevant activities of FAO; specific information on the capacity-building needs of

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developing States in relation to implementation of the Agreement, and an overview of the performance reviews of regional fisheries management organizations that have taken place so far, including a description of the primary recommendations of such performance reviews.

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Abbreviations

AIDCP	Agreement on the International Dolphin Conservation Program
APFIC	Asia-Pacific Fisheries Commission
ASEAN	Association of Southeast Asian Nations
CCAMLR	Commission for the Conservation of Antarctic Marine Living Resources
CCSBT	Commission for the Conservation of Southern Bluefin Tuna
COPESCAL	Commission for Inland Fisheries of Latin America
CPPS	Permanent Commission for the South Pacific
FAO	Food and Agriculture Organization of the United Nations
FFA	Pacific Islands Forum Fisheries Agency
FIRMS	FAO Fishery Resources Monitoring System
GEF	Global Environment Facility
GFCM	General Fisheries Commission for the Mediterranean
IATTC	Inter-American Tropical Tuna Commission
ICCAT	International Commission for the Conservation of Atlantic Tunas
ICES	International Council for the Exploration of the Sea
IOC	Indian Ocean Commission
IOTC	Indian Ocean Tuna Commission
IMO	International Maritime Organization
NAFO	Northwest Atlantic Fisheries Organization
NEAFC	North East Atlantic Fisheries Commission
NASCO	North Atlantic Salmon Conservation Organization
NPAFC	North Pacific Anadromous Fish Commission
OSPESCA	Organization of Fisheries and Aquaculture for the Isthmus of Central America
SADC	Southern African Development Community
SEAFDEC	Southeast Asian Fisheries Development Center
SEAFO	South East Atlantic Fisheries Organization
SIOFA	South Indian Ocean Fisheries Agreement
SPC	Secretariat of the Pacific Community

SPRFMO	South Pacific Regional Fisheries Management Organisation
SWIOFC	Southwest Indian Ocean Fisheries Commission
WCPFC	Western and Central Pacific Fisheries Commission
WTO	World Trade Organization

I. Introduction

1. The Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks[1] (the Agreement) entered into force on 11 December 2001. Pursuant to article 36 of the Agreement, and in accordance with paragraph 16 of General Assembly resolution 59/25, the Secretary-General convened a review conference on the Agreement four years after its entry into force.

2. The Review Conference, held in New York from 22 to 26 May 2006,[2] was mandated to assess the effectiveness of the Agreement in securing the conservation and management of straddling and highly migratory fish stocks by reviewing and assessing the adequacy of its provisions and, if necessary, proposing means of strengthening the substance and methods of implementation of those provisions in order better to address any continuing problems in the conservation and management of those stocks.

3. The Review Conference addressed ways to give full effect to the Agreement, both through a substantive review and assessment and by agreeing on recommendations for strengthening the implementation of the Agreement. The Conference also agreed to continue the informal consultations of States Parties to the Agreement and keep the Agreement under review through the resumption of the Review Conference at a date not later than 2011, to be agreed at a future round of informal consultations.[3]

4. In 2008, the seventh round of informal consultations of States Parties agreed to recommend to the General Assembly that the Secretary-General resume in 2010 the Review Conference convened pursuant to article 36 of the Agreement and, inter alia, begin the necessary preparatory work for that purpose. By its resolution 63/112, the General Assembly requested the Secretary-General to resume the Review Conference in New York for one week in the first part of 2010, with a view to assessing the effectiveness of the Agreement in securing the conservation and management of straddling fish stocks and highly migratory fish stocks, and to render the necessary assistance and provide such services as might be required for the resumption of the Review Conference. The Assembly also requested the Secretary-General to submit to the resumed Review Conference an updated comprehensive report, prepared in cooperation with the Food and Agriculture Organization of the United Nations (FAO), to assist the Conference in discharging its mandate under article 36, paragraph 2, of the Agreement.[4]

5. At the eighth round of informal consultations of States Parties, held in March 2009, States agreed that assessing the effectiveness of the Agreement in securing the conservation and management of straddling fish stocks and highly migratory fish stocks would be undertaken through a review of the implementation of the recommendations adopted by the Review Conference in 2006. States recommended a timeline and programme of work outlining, inter alia, the content and scope of the updated comprehensive report of the Secretary-General to the resumed Review

[1] United Nations, *Treaty Series*, vol. 2167, No. 37924.

[2] The report of the Review Conference is contained in document A/CONF.210/2006/15.

[3] Ibid., paras. 134 and 135 and annex, para. 59.

[4] General Assembly resolution 63/112, paras. 31 and 32.

Conference.[5] The eighth round of informal consultations of States Parties also requested the Division for Ocean Affairs and the Law of the Sea of the Office of Legal Affairs of the Secretariat to develop and circulate a voluntary questionnaire addressed to States and regional fisheries management organizations and arrangements regarding the recommendations of the Review Conference in 2006.

6. In April 2009, a questionnaire was circulated requesting information from States Parties, regional fisheries management organizations and arrangements and FAO on the recommendations adopted at the Review Conference in 2006, so that such information could be taken into account in the preparation of the report of the Secretary-General. A similar questionnaire was circulated to States non-Parties. A total of 21 responses were received from Parties and non-Parties, and 13 from regional fisheries management organizations and arrangements and other fisheries bodies. FAO also provided a response. The Secretary-General wishes to express his appreciation for all the contributions (see the annex to the present report).

II. Overview of the status and trends of straddling fish stocks and highly migratory fish stocks, discrete high seas stocks and non-target, associated and dependent species

A. General considerations

7. In response to the request by the General Assembly, the present section provides an update on the status and trends of straddling fish stocks and highly migratory fish stocks and discrete high seas stocks, non-target, associated and dependent species since the Review Conference in 2006, including an update on the landings and estimates of the state of exploitation of stocks of highly migratory species, straddling stocks, discrete high seas stocks and relevant information on non-target and associated dependent species.

8. This overview builds on and updates information contained in section II of the report submitted by the Secretary-General to the Review Conference in 2006, which described the status of fish stocks and other marine species.[6] It features new information and assessments and refers, as appropriate, to the 2006 report of the Secretary-General where information remains unchanged.

1. Species and stock terminology

9. FAO provided a general elaboration on species and stock terminology.[7] For the purpose of this review, highly migratory species are considered to be the fish species listed in annex I to the United Nations Convention on the Law of the Sea

[5] ICSP8/UNFSA/REP/INF.6, para. 15 and annex III.

[6] A/CONF.210/2006/1, paras. 11-134. That report was based, in part, on information drawn from FAO Fisheries Technical Paper 495, "The state of world highly migratory, straddling and other high seas fishery resources and associated species" (Rome, 2006).

[7] FAO Fisheries Technical Paper 337, "World review of highly migratory species and straddling stocks" (Rome, 1994). While the definition of a species is straightforward (i.e., members of the same species can reproduce with one another), the definition of a stock can vary according to available knowledge. For example, two species of redfish with similar characteristics could be considered as a stock for management purposes.

(the Convention).[8] With respect to straddling fish stocks, no requirement for a minimum portion of fish occurring outside or inside areas under national jurisdiction has been defined, but according to usage, straddling is considered to include situations where there is some directed fishing effort at catching the stock on either side of the boundary. This report does not address stocks that occur either entirely within one State's exclusive economic zone or two or more States' exclusive economic zones, but not on the high seas, or sedentary species of the continental shelf, as described in article 77 of the Convention. Other usage of terminology is elaborated in the 2006 report of the Secretary-General.[9]

2. Approach including data issues

10. This overview has been based on information from regional fishery bodies, including regional fisheries management organizations and arrangements.[10] Information from the latest FAO publication on the state of world fisheries and aquaculture[11] has also been used, particularly regarding the state of selected straddling stocks. Catch information has been taken from the FAO Fisheries Statistic Database.[12] The most recent complete year of data is 2007. Species/stocks have been classified, according to a FAO scheme, as follows:

- **Underexploited**: undeveloped or new fishery, believed to have a significant potential for expansion in total production.
- **Moderately exploited**: exploited with a low fishing effort; believed to have some limited potential for expansion in total production.
- **Fully exploited**: fishery is operating at or close to optimal yield/effort, with no expected room for further expansion.
- **Overexploited**: fishery is being exploited above the optimal yield/effort which is believed to be sustainable in the long term, with no potential room for further expansion and a higher risk of stock depletion/collapse.
- **Depleted**: catches are well below historical optimal yields, irrespective of the amount of fishing effort exerted.
- **Recovering**: catches are again increasing after having been depleted or a collapse from a previous high.
- **Not known**: not much information is available to make a judgment.

11. The approach to species statistical area combinations stocks, as stocks or a collection of several stocks or management units, the limited availability of information on associated species and discards, and the availability of information

[8] Whales (cetaceans) are included in annex I of the Convention as highly migratory species, but whaling is not addressed in the Agreement and cetaceans are not considered in this review.

[9] A/CONF.210/2006/1, paras. 12-15.

[10] In particular, CCSBT, IOTC, IATTC, ICCAT, NEAFC, CCAMLR, SPC, ICES and national fisheries management authorities. Information on regional fisheries bodies is available at www.fao.org/fi/body/rfb/index.htm.

[11] FAO, *The State of World Fisheries and Aquaculture 2008* (Rome, 2009).

[12] www.fao.org/fi/statist/FISOFT/FISHPLUS.asp.

elsewhere on the biological characteristics and geographic distribution of the species remain unchanged from the 2006 report of the Secretary-General.[13]

B. Highly migratory fish stocks

12. Highly migratory fish species include tuna and tuna-like species, oceanic sharks, pomfrets, sauries and dolfinfish. Some of these species may only occur and/or be caught within areas under national jurisdiction, but the available global database does not distinguish between catches made in such areas and on the high seas. Highly migratory species are therefore addressed without regard to stocks or occurrence within areas under national jurisdiction or on the high seas.

i. Tuna and tuna-like species

(a) The resources

13. Biological information on tuna and tuna-like species and their geographical distribution appears in the 2006 report of the Secretary-General.[14]

(b) The fisheries

14. An historic account of the development of tuna fisheries during the twentieth century appears in the 2006 report of the Secretary-General.[15] Information on catches provided in 2003[16] remained unchanged in 2007.

(c) State of the stocks

15. The general characteristics and state of most highly migratory tropical tunas are described in the 2006 report of the Secretary-General,[17] which concluded that expected yields were lower and the risks of overexploitation were higher, making it all the more important to exercise prudent management.

16. The state of the bluefin and bigeye tuna stocks, both highly desired for sashimi, remained the same. The west Atlantic bluefin tuna and the southern bluefin tuna are still depleted, whereas the eastern Atlantic bluefin tuna is overexploited and the Pacific bluefin tuna is fully exploited. Bigeye tuna is still overexploited in the eastern Pacific. Although overfishing for bigeye tuna is occurring in the western Pacific, the stock is not yet in an overfished state.[18]

17. Albacore, a temperate species, is used mostly for canning. The stocks are fully exploited in the north and south Pacific and overexploited in the north and south Atlantic. Catches from the north Atlantic stock in 2007 were the lowest recorded since 1983. Albacore is probably fully exploited in the Indian Ocean while the state of exploitation in the Mediterranean Sea is unknown.

18. The stock of yellowfin tuna in the Indian Ocean became overexploited following extraordinarily high catches in the early 2000s. However the decrease in

[13] A/CONF.210/2006/1, paras. 19-21.
[14] Ibid., paras. 24-29.
[15] Ibid., paras. 30-35.
[16] Ibid., para. 35.
[17] Ibid., para. 36.
[18] Ibid., paras. 37 and 39.

catches in more recent years has probably brought the stock to the state of fully exploited. Yellowfin is fully exploited in the other oceans.

19. Skipjack tuna is only moderately exploited in the Pacific and probably also in the Indian Ocean. The reported 2007 catches of skipjack in the western Central Pacific (1.7 million tons) were the highest on record. However, with the present fishing techniques, catches of skipjack cannot be increased without undesired increases of catches of other species. Although the state of skipjack in the Atlantic is less certain, the stocks are likely to be close to fully exploited as catches approach the estimated maximum sustainable yield.

20. The state of exploitation of many other tuna and tuna-like species is highly uncertain or unknown. Given the absence of reliable information on the state of exploitation, caution should be exercised in managing these fisheries, and it would not be prudent to allow fisheries to expand. Significant uncertainties in the state of exploitation of many billfishes represent a serious conservation problem.

21. In the Atlantic, blue and white marlins seem to be overexploited even though they are not generally targeted. Blue marlin is fully exploited in the eastern Pacific. Striped marlin is fully exploited in the northern Pacific, moderately exploited in the eastern Pacific and likely to be overexploited in the south-western Pacific. The state of the stock of billfishes in the Indian Ocean is less certain but the consistent decline in catches and other indicators of biomass is a source of concern.

22. Because of commercial exploitation, more is known about the state of swordfish exploitation than that of other billfishes. Swordfish is fully exploited in the Atlantic and overexploited in the Mediterranean. Stocks are fully exploited in the south Pacific. No further increase in catches is recommended to keep the south-western Pacific stock within sustainable levels of exploitation. Preliminary assessments of the state of exploitation of swordfish in the north-east Pacific indicate that the stock is probably moderately exploited. The Indian Ocean is responsible for the largest catches of swordfish globally and there is concern about the impact that the intensification of fisheries will have on the stock. The Indian Ocean stock is considered fully exploited.

23. In summary, the scientific information available primarily from regional tuna fishery management organizations and other intergovernmental organizations indicates that none of the tuna and tuna-like species is considered underexploited. For those stocks whose state of exploitation is known (65 per cent), 18 per cent are moderately exploited, 53 per cent are fully exploited, 25 per cent are overexploited and 5 per cent are depleted.

24. The state of stocks remained practically unchanged since the last global assessment prepared by FAO in 2005, reinforcing the conclusion that there are probably few opportunities to increase exploitation, except in some areas of the Pacific, and possibly in the Indian Ocean, where significant increases in catches of skipjack tuna might be sustainable. However, if current fishing techniques are used, this can only be done at the expense of undesired increases of catches of other species.

2. Oceanic sharks

(a) The resources

25. Sharks listed in annex I to the Convention are the bluntnose sixgill shark (*Hexanchus griseus*), basking shark (*Cetorhinus maximus*), thresher shark (family Alopiidae), whale shark (*Rhincodon typus*), requiem shark (family Carcharhinidae), hammerhead, bonnethead or scoophead shark (family Sphyrnidae) and mackerel shark (family Lamnidae[19]).

26. Unfortunately, the state of many shark populations is unknown or poorly known. However, the life history of sharks (slow growth, long life span, low fecundity) make them particularly vulnerable to overexploitation and depletion, requiring great caution in fishing sharks and managing the fisheries exploiting them. The total reported catches of species and families of sharks listed in annex I to the Convention have gradually increased in recent years, from 114,000 tons in 2003 to 153,000 tons in 2007. The requiem sharks (Carcharhinidae) accounted for over 70 per cent of these catches in 2007. The increasing trend in reported catches observed in recent years may be due to a combination of factors related to species exploitation and fisheries monitoring. However, it most likely reflects improved species identification and reporting by shark fishing nations that used to report shark catches in highly aggregated taxonomic categories.[20] For instance, in the same period of increasing catches of highly migratory sharks there has been a decreasing trend in the reported catches of "sharks, rays, skates, etc. nei" (Elasmobranchii), from 413,000 tons in 2003 to 291,000 tons in 2007.

(b) The fisheries

27. A description of shark fisheries appears in the 2006 report of the Secretary-General.[21] Industrial and artisanal fisheries are common throughout the world and use a variety of fishing gears and vessels. Although several fisheries are directed at one or a small number of shark species, most sharks are taken in multispecies fisheries targeting more highly valued traditional bony fish species.

(c) State of the stocks

28. There are no assessments of the state of the stock(s) or exploitation of the bluntnose sixgill shark (*Hexanchus griseus*). Catches have been reported only from the Atlantic Ocean since 2001. Because of its life history characteristics,[22] the species is susceptible to overexploitation even at low levels of fishing. Unless demonstrated otherwise, it is therefore prudent to consider these species as being fully exploited or overexploited globally.

29. The state of the basking shark (*Cetorhinus maximus*) remains unchanged, i.e., the species is still overexploited globally with some areas being depleted.[23] Moreover, the reported catches, commonly in excess of 8,000 tons, have been much

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[19] The family Lamnidae is listed as Isurida in the Convention.

[20] FAO (in press), "Report of the Technical Workshop on the Status, Limitations and Opportunities for Improving the Monitoring of Shark Fisheries and Trade, Rome, 3-6 November 2008", FAO Fisheries and Aquaculture Report No. 897.

[21] A/CONF.210/2006/1, paras. 69-71.

[22] For example, the reported age of maturity of females ranges between 18 and 35 years.

[23] A/CONF.210/2006/1, para. 49.

less since the end of the 1990s with less than 100 tons reported in 2007. In addition to being listed on relevant protocols of the Convention for the Protection of the Marine Environment and the Coastal Region of the Mediterranean (Barcelona Convention) and the Convention on International Trade in Endangered Species of Wild Fauna and Flora as reported in 2006, it is also listed on the Convention on the Conservation of Migratory Species of Wild Animals and is legally protected by several States.

30. There are three species of thresher sharks (family Alopiidae): *Alopias pelagicus*, *Alopias superciliosus* and *Alopias vulpinus*. The state of the thresher sharks remains unchanged.[24] They are still considered to be fully exploited or overexploited globally, but new information since 2004 shows that there has been a remarkable increase in catches, reaching close to 20,000 tons in 2007. This recent increase in catches is mostly due to the improved reporting of shark statistics by Indonesia, the world's top shark fishing nation. Likewise, catches of *A. pelagicus* have been recorded by countries fishing in the south-eastern Pacific Ocean only since 2006. The latest assessment of the stock of *A. vulpinus* in the eastern Pacific indicates that the stock is not overexploited and showed some level of recovery since the end of the target fishery in 1990.[25]

31. The state of whale sharks (*Rhincodon typus*) remains unchanged.[26] The state of stocks continues to be uncertain, but they are considered fully exploited globally. The species is listed on appendix II to both the Convention on the Conservation of Migratory Species of Wild Animals and the Convention on International Trade in Endangered Species of Wild Fauna and Flora.

32. The state of requiem sharks (family Carcharhinidae) remains unchanged,[27] with new information showing that reported catches have increased more or less steadily from a brief decline in the 1980s to more than 100,000 tons in 2007.

33. The state of exploitation of the silky shark, *Carcharhinus falciformis*, remains unknown,[28] but, as for other sharks, considering the low resilience of the species to overexploitation, the possibility of stocks being fully exploited is not disregarded. The silky shark is at present relatively free of threats in the form of habitat destruction because it does not live inshore nor does it utilize coastal lagoons as pupping or nursery areas like other shark species. Recorded catches peaked at 26,000 tons in 1994 and have steadily declined since then, reaching slightly more than 2,000 tons in 2007.

34. The night shark, *Carcharhinus signatus*, is an oceanic species generally occurring in outer continental shelf waters in the western Atlantic Ocean from the United States of America to Argentina and in the eastern Atlantic from Senegal to northern Namibia. Although a decline in catches of night sharks occurred in some fisheries in the western Atlantic, it is unclear whether this decline is due to a real population decline. Abundance data from the north-eastern Atlantic were inconclusive but indicated that species have not suffered large magnitudes of

[24] Ibid., para. 50.

[25] Pacific Fishery Management Council, "Fishery Management Plan for U.S. West Coast Fisheries for Highly Migratory Species, June, 2007", available at www.pcouncil.org/hms/fmp/HMS_FMP_Aug09.pdf.

[26] A/CONF.210/2006/1, paras. 52 and 53.

[27] Ibid., paras. 54 and 58.

[28] Ibid., para. 55.

decline.[29] The stock in the north-eastern Atlantic is considered at least fully exploited. The state of the species in other parts of its range is unknown.

35. Whitetip shark, *Carcharinus longimanus*, is an oceanic shark found in tropical and warm-temperate waters of the Atlantic, possibly in the Mediterranean Sea, in the western Indian Ocean and in the Pacific. Although it is one of the most common oceanic sharks, catches are only reported in the south-western Atlantic. Catches declined from 638 tons in 2000 to 14 tons in 2007. The state of the species is unknown.

36. Blue shark, *Prionace glauca*, has a worldwide distribution in temperate and tropical oceanic waters. It is one of the most abundant and the most heavily fished shark in the world, often as by-catch in pelagic longlines fisheries, but also on hook-and-lines, in pelagic trawls and even bottom trawls near the coasts. The total recorded catches of blue sharks in 2007 (55,000 tons) were the highest on record. Blue sharks in the Atlantic and eastern Pacific are under moderate levels of exploitation. However because of the considerable uncertainties of the assessments resulting from data limitations, it is prudent to also consider the possibility that these stocks are fully exploited. The state of the species is unknown in other parts of its range.

37. The state of the family Sphyrnidae remains unchanged,[30] with the total reported catch of Sphyrnidae at about 4,000 tons in 2007. Unless demonstrated otherwise, fishing the species should only be allowed under strict controls.

38. Reported catches of mackerel sharks (currently family Lamnidae, although annex I to the Convention refers to them as Isurida)[31] have increased steadily from about 1,000 tons in the early 1980s to 10,000 tons in 2007, mostly shortfin mako (7,000 tons) and porbeagle sharks (800 tons).

39. The state of the great white shark (*Carcharodon carcharias*) remains the same.[32] It has been listed on the Convention on International Trade in Endangered Species of Wild Fauna and Flora, the Convention on the Conservation of Migratory Species of Wild Animals and the Barcelona Convention and is being protected in several range States including Australia, Malta, South Africa and the United States.

40. The shortfin mako (*Isurus oxyrinchus*) is described in the 2006 report of the Secretary-General.[33] The updated assessment of the state of exploitation of the northern Atlantic stock indicated that there is a non-negligible probability that the stock is overexploited. In the eastern Pacific the stock is not considered overexploited. The stock state in other areas is unknown.

41. Little continues to be known about the distribution and state of longfin mako (*I. paucus*) populations,[34] and without such information, management of fisheries that catch this species should be cautious.

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[29] J. K. Carlson, E. Cortes, J. A. Neer, C. T. Mccandles and L. R. Beerkircher, "The Status of the United States Population of Night Shark, Carcharhinus signatus", *Marine Fisheries Review* 70: 1-13, 2008.

[30] A/CONF.210/2006/1, paras. 60 and 61.

[31] Ibid., paras. 62-68.

[32] Ibid., para. 63.

[33] Ibid., para. 64.

[34] Ibid., para. 65.

42. The state of the salmon shark (*Lamna ditropis*) remains unchanged.[35] It is the second most important species, after the blue shark, caught by Japanese pelagic fisheries (longline and drift-net), with annual landings in the period from 1992 to 2006 ranging from 1,400 to 4,400 tons. The species is considered heavily fished even though most of the catch is discarded by-catch.

43. The porbeagle (*Lamna nasus*) is described in the 2006 report of the Secretary-General.[36] Recent information shows that the western Atlantic stock is considered depleted. A management plan to rebuild the stock is being implemented in Canada and the United States and catch quotas have been reduced to support the population recovery. The north-east Atlantic stock is still considered depleted, and the state of the stock(s) in the Southern Ocean is unknown.

44. Of the shark species/areas combinations with known state of exploitation (44 per cent), more than 60 per cent are considered potentially overexploited or depleted. Effective conservation measures are required to protect these species against further declines and to recover their productive capacity. In general, sharks are vulnerable to overexploitation and depletion, especially locally. In the absence of stock-specific information on the state of fisheries and fishery resources, it is prudent to consider the state of shark populations as being at least fully exploited and to apply a precautionary approach to their management.

3. Other highly migratory species

45. The species in this section, unlike tunas and to some extent sharks, have not attracted large or high-profile fisheries. Therefore, there is little information about the biology of these species and the state of exploitation, other than reported catches.[37] The main "other highly migratory species" are pomfrets, sauries and dolphinfish.

46. The state of pomfrets (family Bramidae) remains unchanged,[38] and they are still considered to be moderately exploited to fully exploited. Catches have been oscillating in recent years without a clear trend. The maximum reported catches in 2005 were close to 19,000 tons from 23 countries fishing in the Atlantic, Pacific and Indian Oceans. Landings in 2007 (11,000 tons) were close to the average reported in the last decade. Pomfrets are included in some national management plans but are not assessed by international fisheries bodies.

47. Sauries belong to the Scomberesocidae family, and their state remains unchanged.[39] Only four countries have reported saury landings to FAO. Although their state of exploitation is not known, sauries are unlikely to be overexploited.

48. The state of the two dolphinfishes of the Coryphaenidae family, the common dolphinfish (*Coryphaena hippurus*) and the Pompano dolphinfish (*Coryphaena equiselis*), remains unchanged.[40] Reported landings show a sustained increasing

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[35] Ibid., para. 66.

[36] Ibid., paras. 67 and 68.

[37] The FAO Species Identification and Data Programme website (www.fao.org/fishery/sidp/en), FishBase (www.fishbase.org) and other FAO resources were used as sources of information on the biological characteristics and geographical distribution of the other highly migratory species.

[38] A/CONF.210/2006/1, paras. 75 and 76.

[39] Ibid., paras. 77-79.

[40] Ibid., paras. 80 and 81.

trend from 7,000 tons in 1950 to almost 60,000 tons in 2005. Catches in 2007 were about 49,000 tons. The Pacific Ocean accounts for more than half the catches. Dolphinfish are considered in some national fishery management plans but, similar to pomfrets and sauries, they do not appear to be assessed by international fishery bodies.

C. Selected straddling fish stocks

49. The following sections summarize the state of the main straddling stocks in each FAO statistical area, based on the list of species identified by FAO for the Review Conference in 2006. The main species that constitute straddling stocks (e.g., cod, pollock and flounder) are generally well studied compared to several highly migratory species, particularly the non-tunas. Therefore, this document does not review the biology, life history and migratory behaviour of these species. Such information is readily available from various published sources of information or regional fisheries bodies.

1. Pacific Ocean

(a) North-west Pacific

50. The state of straddling stocks in the north-west Pacific remained similar to that reported in 2006.[41] The pollock stocks that produced record catches in the late 1980s declined in the early 1990s, mainly owing to unregulated fishing in the international waters of the north-west Pacific. In 1995, pollock fishing in the high seas areas of the Central Bering Sea (including in the "Donut Hole") became regulated by the Convention on the Conservation and Management of Pollock Resources in the Central Bering Sea. Despite management efforts by members of the Convention, the biomass of the pollock stock is still well below historical levels.[42]

51. The stocks of squids display large variability in catches, abundance and distribution in response to changing environmental conditions in the north Pacific. There is scant information about the state of the stocks. However, considering that oceanic squids are widely distributed and highly productive, it is unlikely that they are currently overexploited. FAO information[43] indicated that stocks were varying from moderately to fully exploited. Based on reported landings, the Pacific Ocean perch is considered depleted, while the state of pelagic armourhead and alfonsino is not known.

(b) North-east Pacific

52. Straddling stocks in the north-east Pacific include jack mackerel (*Trachurus picturatus symmetricus*) and Alaska (Walleye) pollock (*Theragra chalcogramma*). Similar to the 2006 assessment,[44] jack mackerel is moderately exploited and the

[41] Ibid., para. 83.

[42] North Pacific Fishery Management Council, "Stock Assessment and Fishery Evaluation Report for the Groundfish Resources of the Bering Sea/Aleutian Islands Region" (December 2008), available at www.afsc.noaa.gov/REFM/Docs/2008/BSAISafe.pdf.

[43] FAO, *The State of World Fisheries and Aquaculture 2008* (Rome, 2009).

[44] A/CONF.210/2006/1, para. 84.

stocks of Alaska pollock in the eastern Bering Sea and Aleutian Islands region are fully exploited.

(c) Western Central Pacific

53. There continues to be no information on straddling stocks in the western Central Pacific.[45]

(d) Eastern Central Pacific

54. The state of the straddling stocks of giant squid (*Dosidicus gigas*) and Spanish mackerel (*Scomber japonicus*) in the eastern Central Pacific remains unchanged.[46] The stock of horse mackerel (*Trachurus symmetricus*) has been lightly exploited since the early 2000s.

(e) South-west Pacific

55. The state of the straddling fish stocks in the south-west Pacific remains basically unchanged,[47] with the only variation being that Spanish mackerel, flying squid and flying fish are likely to be moderately exploited.

(f) South-east Pacific

56. The state of straddling stocks in the south-east Pacific remains unchanged.[48] Catches of Spanish mackerel (*Scomber japonicus*) found beyond the exclusive economic zone are small. The stock is considered moderately to fully exploited. The Chilean jack mackerel is fully exploited to overexploited while the jumbo squid is moderately exploited.

2. Atlantic Ocean

(a) North-west Atlantic

57. The state of most straddling stocks in the north-west Atlantic remains unchanged,[49] either fully exploited, overexploited or depleted, except that the assessment of capelin has changed from underexploited to depleted. However, some level of recovery of the redfish stock has been observed in recent years.

(b) North-east Atlantic

58. The state of some of the main "traditional" straddling stocks in the north-east Atlantic has changed.[50] Cod and haddock have been reassessed from overexploited to fully exploited and oceanic redfish from fully exploited to overexploited.

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[45] Ibid., para. 85.
[46] Ibid., para. 86.
[47] Ibid., para. 87.
[48] Ibid., para. 88.
[49] Ibid., paras. 89 and 90.
[50] Ibid., paras. 91-93.

(c) Eastern Central Atlantic

59. The state of straddling stocks in the eastern Central Atlantic remains unchanged.[51] There are still no significant fisheries for straddling stocks outside of exclusive economic zones at present in the eastern Central Atlantic.

(d) Western Central Atlantic

60. The state of straddling stocks in the western Central Atlantic remains unchanged.[52] As for the eastern Central Atlantic, there are still no significant fisheries for straddling stocks outside exclusive economic zones at present in the western Central Atlantic.

(e) South-west Atlantic

61. The assessment of the state of straddling stocks in the south-west Atlantic has changed.[53] The state of stocks of flying squid, tadpole mora, grenadier, the Antarctic cod, rockcods and sharks and rays remain unknown. The Patagonian grenadier, previously assessed as moderately exploited, is moderately to fully exploited; Patagonian toothfish, previously moderately to fully exploited, is fully exploited; pink cusk eel, previously moderately to fully exploited, is fully exploited to overexploited; shortfin squid remains fully exploited; Patagonian squids, not previously referenced, are fully exploited; southern blue whiting, previously fully exploited to overexploited, is overexploited; and hakes remain fully exploited to depleted.

(f) South-east Atlantic

62. The state of straddling stocks in the south-east Atlantic remains unknown;[54] there is a general lack of data on the state of fisheries and stocks of most of the relevant species. However, the assessment of horse mackerel has changed from being fully exploited to varying from moderately exploited to overexploited. As a precautionary measure against overfishing, catch limits and closed areas have been established by SEAFO for some deep-water species considered highly vulnerable to fishing, including orange roughy, oreo dories, alfonsino, armourhead, cardinal fish, wreckfish and deep-sea red crab.

3. Indian Ocean

63. Fisheries on straddling stocks in the Indian Ocean remain unidentified, owing to the fact that fishing on such stocks does not seem significant at present in those areas in the Indian Ocean where they are likely to be found.[55]

4. Southern Ocean

64. The historic aspects of the fisheries are described in the 2006 report of the Secretary-General.[56] The average catch in the period from 2000 to 2007 was

[51] Ibid., para. 94.
[52] Ibid., para. 95.
[53] Ibid., paras. 96 and 97.
[54] Ibid., para. 98.
[55] Ibid., para. 99.
[56] Ibid., paras. 100 and 101.

137,000 tons. Catches in the period have been dominated by Antarctic krill (84 per cent), Patagonian toothfish (10 per cent), mackerel icefish (2 per cent) and the Antarctic toothfish at less than 2 per cent. More than 60 species were reported in the remaining 2 per cent of the total catches. Illegal, unreported and unregulated fishing is a concern within the CCAMLR Convention area and creates uncertainties regarding the actual volume of catches, especially of the Antarctic toothfish.

65. Antarctic krill (*Euphausia superba*) is considered underexploited because catches are well below the precautionary catch limit established by CCAMLR. Lanternfishes (Myctophidae) are also considered underexploited in all FAO areas. Other species considered underexploited are the lanternfish (*Electrona carlsbergi*), the sevenstar flying squid (*Martialia hyadesi*) and the crab (*Paralomis spinosissima* and *P. formosa*). The Patagonian toothfish (*Dissostichus eleginoides*) and the Antarctic toothfish (*D. mawsoni*) are considered fully exploited to overexploited. Mackerel icefish (*Champsocephalus gunnari*), Antarctic rockcods (*Trematomus* spp.) and blackfin icefish (*Chaenocephalus aceratus*) are considered depleted.

5. Mediterranean Sea

66. The state of shared stocks in the Mediterranean Sea, as identified by GFCM, remained generally unchanged,[57] except for changes in the assessments of sardines and anchovies, previously both considered underexploited to overexploited depending on the zone. The state of sardines now ranges from moderately exploited to overexploited while the state of anchovies ranges from fully exploited to overexploited, depending on the zone. Fishing with towed gears beyond 1,000 metres depth is forbidden by GFCM.

6. State of the selected straddling stocks

67. The state of exploitation is not known for 20 per cent of the selected straddling stocks covered in this review. Taking those for which information is available, 2 per cent of the straddling stocks are underexploited, 12 per cent are moderately exploited, 23 per cent are fully exploited, 55 per cent are overexploited, 8 per cent are depleted and 1 per cent are recovering.

D. Other high seas fish stocks

68. This section considers the fish stocks that are not comprised of highly migratory species and occur exclusively in the high seas. Most of the currently known high seas stocks are comprised of deep-water species, but several others may exist for pelagic species.[58] Relatively little is known about many of the species and most of the fisheries. Their general development, vulnerability and characteristics are described in the 2006 report of the Secretary-General,[59] which also provides

[57] Ibid., para. 103.

[58] The information in this section is drawn or adapted from FAO Fisheries Technical Paper 457, "Review of the state of world marine fishery resources" (Rome, 2005), FAO Fisheries Report No. 772, "Deep Sea 2003, an International Conference on Governance and Management of Deep-Sea Fisheries" (Rome, 2003) and advice and information from the ICES Advisory Committee on Fisheries Management and other regional fisheries bodies.

[59] A/CONF.210/2006/1, paras. 104-108.

detailed scientific background on individual species of orange roughy, oreo dories, alfonsino, toothfishes, pelagic armourhead, hoki and other high seas stocks.[60]

69. Recent assessments for most of the stocks remain unchanged, and illegal, unreported and unregulated fishing remains a major concern for the conservation of toothfish in the CCAMLR Convention area, despite the efforts of the Commission to address the problem. Estimated catches from illegal, unreported and unregulated fishing represented 22 per cent of the total catches in the Convention area in the 2006/07 fishing season and 10 per cent in 2007/08.[61]

70. However, regarding hoki fisheries, management experience in at least some jurisdictions indicates that they can be sustainably managed. In this regard, it was noted that the significance of hoki as an "other high seas fish stock" is probably minor because although it is generally considered to be a deep-water fishery, most of the catch is from areas under national jurisdiction. Similarly, the significance of the following tropical deep-water species as "other high seas fish stocks" is probably minor: members of the Lutjanidae (snappers), Serranidae (sea basses: groupers and fairy basslets), Carangidae (jacks and pompanos) families and most importantly the Eteline snappers (e.g., *Etelis coruscans* and *E. carbunculus*) and the jobfishes (e.g., *Pristomopoides filamentosus*, *P. typus* and *P. multidens*).[62]

E. Associated species

71. As noted earlier in this review, associated species are considered to be impacted species that are not part of the landed catch. Fisheries for straddling fish stocks, highly migratory fish stocks and other high seas fish stocks impact other species as a result of discards, physical contact of fishing gear with organisms and habitat that are not caught and indirect processes. Since the preparation of the 2006 report of the Secretary-General, there has been no new comprehensive review of these impacts on a global scale. Acknowledging that the information presented in 2006 remains relevant, the information below summarizes the main considerations regarding the impacts of fisheries on associated species.

1. Discards

72. The information on global fisheries discards provided by FAO[63] and contained in the 2006 report of the Secretary-General[64] remains generally unchanged.

73. Consideration by the international community of related issues has included the adoption by FAO of the International Plan of Action for Reducing Incidental Catch of Seabirds in Longline Fisheries.[65] In addition, FAO held an expert

[60] Ibid., paras. 109-115, respectively.
[61] www.ccamlr.org.
[62] See A/CONF.210/2006/1, para. 116.
[63] FAO Fisheries Technical Paper 470, "Discards in the world's marine fisheries: an update" (Rome, 2005).
[64] A/CONF.210/2006/1, paras. 120-128.
[65] www.fao.org/figis/servlet/static?dom=org&xml=ipoa_seabirds.xml.

consultation[66] and a technical consultation[67] to consider ways of reducing mortality of sea turtles in fishing operations, including in longline fisheries. Measures introduced in several fisheries and regional fisheries bodies (such as changes in hook shape, bait type and the use of torilines) have reduced significantly the by-catch of seabirds and sea turtles in longline fisheries.

74. Regarding the by-catch of marine mammals,[68] updated information shows that AIDCP reduced drastically the mortality from 132,000 dolphins in 1986 to about 1,200 in 2008. In spite of this success, dolphin populations appear to have been slow to recover.[69]

2. Physical contact by fishing gear with organisms that are not caught, and indirect processes

75. The effects of trawling, indirect processes and alteration of the sea bottom on associated species and their habitat remain unchanged since the 2006 report of the Secretary-General.[70] Actions have been reported recently by States and regional fisheries management organizations and arrangements to protect deep-sea vulnerable marine ecosystems from bottom fisheries,[71] and were subject to a review by the General Assembly in 2009.[72]

F. Straddling fish stocks, highly migratory fish stocks and other high seas fish stocks for which no measures have been adopted by regional fisheries management organizations or arrangements

76. Fisheries on highly migratory tuna and tuna-like species, as defined by annex I to the Convention, are all under some form of management. However, the global nature of some fishing fleets targeting highly migratory species and of markets for these species makes it more difficult for regional fisheries management organizations to manage these fisheries than those that are less global in nature.

77. Unlike fisheries for tuna and tuna-like species, management of fisheries for oceanic sharks and other highly migratory species listed in annex I is spotty and incomplete. The International Plan of Action for the Conservation and Management of Sharks is a non-binding instrument that should guide management of oceanic sharks. Regional fisheries management organizations and arrangements that have competence over fisheries that interact with oceanic sharks and other highly

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[66] FAO Fisheries Report No. 738, "Report of the Expert Consultation on the Interactions between Sea Turtles and the Fisheries within an Ecosystem Context, Rome, Italy, 9-12 March 2004" (Rome, 2004), available at www.fao.org/documents/show_cdr.asp?url_file=/docrep/007/y5477e/y5477e00.htm.

[67] FAO Fisheries Report No. 765, "Technical Consultation on Sea Turtles Conservation and Fisheries, Bangkok, Thailand, 29 November-2 December 2004" (Rome, 2005), available at www.fao.org/documents/show_cdr.asp?url_file=/docrep/007/y5887e/y5887e00.htm.

[68] A/CONF.210/2006/1, para. 127.

[69] www.iattc.org/DolphinSafeENG.htm for the IATTC conservation programme and http://swfsc.noaa.gov for the Southwest Fisheries Science Center research programme on dolphin conservation.

[70] A/CONF.210/2006/1, paras. 129-132.

[71] See A/64/305.

[72] See General Assembly resolution 64/72.

migratory species (particularly longline fisheries) are aware of by-catch issues, but for the most part, by-catch remains unregulated.

78. With the exception of a few species yielding large catches (e.g., tunas and swordfish), knowledge of the biology and state of exploitation of highly migratory species such as billfishes and sailfishes remains scarce. Knowledge is even more limited for most shark species included in annex I.

79. Fisheries on pomfrets, sauries and dolphinfish are sometimes included in national fisheries management plans, either as a component of the plans for other species or on their own. Generally speaking, a more systematic treatment of these species is necessary before it can be said that the fisheries exploiting them are properly managed.

80. Most fisheries on straddling fish stocks are either covered, or in the process of being covered, by existing regional fisheries management organizations or arrangements or those in the process of being formed. The situation is more variable for fisheries for other high seas fish stocks. For example, NEAFC has competence over deep-water fisheries of the north-east Atlantic, some of which include "other high seas fish stocks". However, there is no management authority currently with competence over fisheries for such fish stocks in the Indian Ocean. The situation in the Indian Ocean is expected to change with the entry into force of the South Indian Ocean Fisheries Agreement.

81. In conclusion, one of the main impediments in assessing the state of exploitation of highly migratory species, straddling stocks and other high seas fish stocks is the considerable limitation of fisheries and biological data. Challenges noted in the 2006 report of the Secretary-General, in terms of evaluating the extent to which the Agreement's objective of maintaining fish stocks within sustainable levels of exploitation has been met, still remain.[73]

82. The lack of a global data set that allows the catch and state of straddling and other high seas fish stocks to be separated from fisheries under areas of national jurisdiction is a particularly limiting factor. Likewise, evaluating the protection afforded to associated species under the Agreement is difficult given the limited available data on by-catch and state of exploitation. Furthermore, the link between high seas fishing and the state of associated species is difficult to determine, since many of the associated species are impacted by fisheries in areas under national jurisdiction, often more so than by high seas fisheries, and by coastal development and other human activities.

83. Some progress has been made in improving the reporting of catches of highly migratory shark species in recent years, but with rare exceptions, the information available does not allow a comprehensive evaluation of the state of exploitation of this group of species.

84. Despite these limitations, this overview attempts to provide an updated summary of the status and trends of straddling fish stocks and highly migratory fish stocks, high seas stocks and non-target, dependent and associated species using the best available information. There were no major changes in the overall state of stocks and fisheries catches since the last assessment made in 2005. The majority of

[73] A/CONF.210/2006/1, paras. 17-20.

the species for which information is available are considered either fully exploited or overexploited.

85. This situation reinforces the need for countries fishing on the high seas to cooperate, either directly or through regional fisheries bodies, to employ effective measures to sustainably manage fisheries and to conserve stocks already overfished. Cooperation among States will be also key to improve the monitoring of fisheries in the high seas. The quality of future evaluations of the performance of the Agreement hinges on substantial improvements in the availability of data on the high seas stocks and fisheries.

III. Review and analysis of the extent to which the recommendations of the Review Conference have been implemented

86. In 2006, the Review Conference addressed four separate clusters of issues in reviewing and assessing the adequacy of the provisions of the Agreement and means of strengthening the substance and methods of their implementation: (a) conservation and management of stocks; (b) mechanisms for international cooperation and non-members; (c) monitoring, control and surveillance, and compliance and enforcement; and (d) developing States and non-parties.

87. On the basis of its review and assessment, the Review Conference adopted recommendations for strengthening the implementation of the provisions of the Agreement.[74] The following sections review and analyse the extent to which these recommendations have been implemented by States and regional fisheries management organizations and arrangements, and describe relevant activities of FAO.

A. Conservation and management of stocks

88. The Review Conference reviewed current efforts related to the conservation and management of straddling fish stocks and highly migratory fish stocks, including the adoption of measures to ensure the long-term sustainability of such stocks and to address overfishing, overcapacity and the effects of fishing on the marine environment; cooperation to manage fisheries not regulated by a regional fisheries management organization; and the collection and sharing of data. Based on its review, a number of recommendations were made concerning the conservation and management of these stocks.

1. Measures taken by States

89. *Adoption and implementation of conservation and management measures* States reported on a range of measures taken at global, regional and national levels to demonstrate their strengthened commitment to adopt and fully implement conservation and management measures for straddling fish stocks and highly migratory fish stocks, including unregulated stocks, in accordance with the best

[74] A/CONF.210/2006/15, annex.

available scientific information. In this context, several States described their active membership in regional fisheries management organizations and arrangements and noted their compliance with conservation and management measures adopted by those organizations and arrangements.[75] New Zealand noted that a number of regional fisheries management organizations and arrangements had failed significantly in meeting basic management responsibilities in that regard, and emphasized its support for the joint meetings of tuna bodies and the performance review process, which could be applied to other regional fisheries management organizations and arrangements.

90. Some States highlighted the importance of international cooperation through bilateral and multilateral agreements. The European Community had entered into an agreement with the Russian Federation on cooperation in fisheries and the conservation of the living marine resources in the Baltic Sea. Norway had a comprehensive network of bilateral and multilateral agreements to manage shared and straddling fish stocks. The Philippines noted that bilateral cooperation with neighbouring countries included the conservation and management of fish stocks. Guatemala indicated that budget constraints prevented it from attending relevant subcommittee meetings of regional fisheries management organizations and arrangements.

91. At the national level, many States reported on national legislation and other mechanisms to implement the Agreement and other measures, including obligations under regional fisheries management organizations and arrangements and conservation and management measures, species-specific requirements and compliance for high seas fishing.[76] For example, the United States had implemented the Agreement through over 100 laws and regulations. New permits for high seas fishing were not issued until reviews had been completed under endangered species and environmental policy legislation. States also reported on national plans of action on illegal, unreported and unregulated fishing[77] and on sharks,[78] and the adoption of voluntary guidelines on gear permitted for straddling fish stocks.[79] The European Community reported that it was working to improve scientific knowledge on the migration pattern of tuna in the Indian Ocean, and was funding FAO regional projects to encourage cooperation and improve scientific knowledge on stocks and fisheries in the Mediterranean.

92. *Establishment of new regional fisheries management organizations and arrangements*. States emphasized the importance of addressing unregulated fisheries by initiating processes for the establishment of new regional fisheries management organizations and arrangements in the South and North Pacific Ocean, including agreement on interim measures and establishment of scientific mechanisms to implement such measures. States referred to their active participation in the

[75] Canada, Chile, Cuba, Guatemala, Indonesia, Japan, Mauritius, Mozambique, New Zealand, Norway, Panama, Philippines, Qatar, Thailand,Venezuela (Bolivarian Republic of).

[76] Canada, Chile, European Community, Indonesia, Mauritius, New Zealand, Peru, United States, Venezuela (Bolivarian Republic of).

[77] Mozambique.

[78] European Community.

[79] Guatemala.

establishment of SPRFMO,[80] and New Zealand also noted the provision of financial and resource support for the negotiations. Chile indicated that approval of the initiative in the South Pacific Ocean could leverage implementation of the Agreement and serve to solve specific issues that had kept some States from ratifying the Agreement. In the North Pacific Ocean, Japan and the United States referred to their participation in negotiations to establish a new regional fisheries management organization or arrangement, and Japan reported on its implementation of the interim measures.

93. States also reported on activities to establish new arrangements or improve cooperation in some regions. The European Community was providing scientific basis for regional and national oceanic fisheries management in the African, Caribbean and Pacific Group of States and its overseas countries and territories. It was also strengthening regional cooperation in the fishery sector of east South Africa and the Indian Ocean, as well as elaborating and implementing policies at regional and national level in all countries of the Group. Guatemala was following developments among eastern Pacific Ocean States for the possible establishment of an organization to monitor large pelagic species, which were typically targeted by artisanal fishing. Mozambique has taken a prominent role in the efforts to implement the SADC Protocol on Fisheries as well as the action plan for the 2008 SADC fisheries ministers' statement of commitment to stop illegal, unreported and unregulated fishing. Indonesia supported the establishment of required arrangements to raise the standard of fisheries utilization in accordance with sustainable development.

94. *Application of the precautionary approach and ecosystem approaches.* The Review Conference recommended that States adopt and fully implement conservation and management measures in accordance with the precautionary approach, and that States enhance understanding of ecosystem approaches and incorporate ecosystem considerations in fisheries management, including actions to conserve associated and dependent species and to protect habitats of specific concern, taking into account existing FAO guidelines.

95. States referred in general terms to efforts to apply precautionary and ecosystem approaches to fisheries management,[81] and a number of specific measures were reported, including the provision of precautionary advice on catch levels,[82] mechanisms such as species-specific regional management plans,[83] a proposal on a multilateral scientifically based conservation measure that served as a basis for an agreement in a regional fisheries management organization or arrangement,[84] a national tuna management plan,[85] a regional tuna tagging project to establish status and distribution,[86] and the implementation of the FAO Code of

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[80] Canada, Chile, European Community, Japan, New Zealand, Panama, Peru, United States. It is noted here that the Convention on the Conservation and Management of High Seas Fishery Resources in the South Pacific Ocean was adopted on 14 November 2009 and will be open for signature on 1 February 2010.

[81] Canada, Chile, European Community, Guatemala, Mauritius, New Zealand, Norway, Panama, United States.

[82] Norway.

[83] Qatar.

[84] Venezuela (Bolivarian Republic of).

[85] Philippines.

[86] Kenya.

Conduct on Responsible Fisheries.[87] In the United States, the Magnuson-Stevens Act was amended to require the establishment of annual catch limits for each federally managed fishery starting in 2010, and for the limits to be set so overfishing does not occur.[88] The Act also requires increased accountability to prevent overfishing, including corrective actions to mitigate the effects, and rebuilding plans for overfished stocks, and further provides for the prohibition of fishing gear.

96. Most States reported support for, or adoption of, ecosystem approaches through a wide range of mechanisms,[89] and many also referred to the FAO Technical Guidelines on the ecosystem approach to fisheries, including for regional fisheries management organizations and arrangements,[90] and the adoption of the FAO International Guidelines for the Management of Deep-sea Fisheries in the High Seas.[91] A number of States also described actions to implement ecosystem approaches in species-specific management plans, including reduction of incidental catch by the implementation of FAO international plans of action on sharks and seabirds and the FAO guidelines to reduce turtle mortality, as well as other means.[92] Guatemala created artificial reefs to establish protection and conservation areas for certain species and identified funding to promote capture of certain species and reduce fishing efforts for highly migratory and straddling fish stocks. Kenya constituted an intersectoral national task group to spearhead a species-specific management plan based on principles of ecosystem-based management, under the guidance of the FAO Ecosystem approach to fisheries-Nansen project. Norway applied a holistic approach by gradually implementing ecosystem components in scientifically based management plans, including the integrated management plans adopted for the Barents Sea in 2006 and for the Norwegian Sea in 2009.

97. Some States also reported on legislative or policy measures to implement ecosystem approaches.[93] Canada developed a policy to manage the impacts of fishing on sensitive benthic areas, which applies to fishing activities that are licensed or managed both within and beyond areas under national jurisdiction. As part of a three-year fisheries renewal programme, planned to conclude in 2011, it also developed a sustainable fisheries framework to form a foundation for implementing an ecosystem approach in the management of fisheries. Chilean legislation did not specifically refer to the ecosystem approach to fisheries management, but the approach was applied in practice through a number of tools such as biodiversity studies, marine protected areas, design and use of selective gear and a discards policy. The ecosystem approach was an important element of the European Community thematic strategy on the protection and conservation of the

[87] Qatar.

[88] Magnuson-Stevens Fishery Conservation and Management Reauthorization Act, as amended in January 2007.

[89] Canada, Chile, European Community, Indonesia, Japan, Kenya, Mauritius, Mozambique, New Zealand, Norway, Panama, Qatar, Sri Lanka, United States, Venezuela (Bolivarian Republic of).

[90] FAO, "FAO Technical Guidelines for Responsible Fisheries, No. 4, Suppl. 2: The ecosystem approach to fisheries" (Rome, 2003).

[91] FAO Fisheries and Aquaculture Report No. 881, "Report of the Technical Consultation on International Guidelines for the Management of Deep-sea Fisheries in the High Seas, Rome, 4-8 February and 25-29 August 2008", appendix F.

[92] Japan, Kenya, Mozambique, New Zealand, Norway, United States.

[93] European Community, Guatemala, Indonesia, New Zealand, United States, Venezuela (Bolivarian Republic of).

marine environment, and it was fully integrated in a regulation on management measures for the sustainable exploitation of fisheries resources in the Mediterranean Sea by giving the same priority to environmental concerns as to fisheries production matters. The European Community also developed a regulation to protect vulnerable marine ecosystems in the high seas from the adverse impacts of bottom fishing gears, in line with General Assembly resolution 61/105. In Guatemala, purse seine and longline fishing was required to take place at a distance greater than 100 nautical miles offshore, and the fisheries legislation in New Zealand required all management decisions to take into account a set of environmental principles based on the ecosystem approach.

98. In the United States, the Magnuson-Stevens Act addressed an ecosystem approach through a requirement to set optimum yield for federally managed stocks, taking into account ecological factors. Amendments authorized managers to include measures in fishery management plans to conserve target and non-target species and habitats, considering the ecological factors affecting fishery populations; authorize regional pilot programmes for ecosystem research; and require a study on the state of science for integration of ecosystem considerations in regional fisheries management. A number of more specific measures had also been taken, including finalizing 17 major regulations to reduce by-catch. In the Bolivarian Republic of Venezuela, the fisheries and fish farming legislation incorporated ecosystem considerations, and regulations specifically addressed fisheries for highly migratory and straddling fish stocks.

99. Some States also reported on the importance of improving science and developing data collection and observing systems in the implementation of an ecosystem approach. Canada reported a Can$ 39 million investment over two years in fisheries science research programmes to strengthen conservation and management and provide science support for ecosystem-based management. The European Community had addressed the coordination and funding of scientific research and studies to improve the knowledge basis for implementation of an ecosystem approach. Collection of data on ecosystem and fisheries was encouraged and supported by a regulation concerning the establishment of a European Community framework for the collection, management and use of fisheries data, and support for scientific advice regarding the European Community Common Fisheries Policy. Mauritius was implementing various ecosystem-based monitoring programmes, but it required technical assistance in its activities to further build capacity in the management of fish stocks and protection of vulnerable marine ecosystems.

100. The United States collected fisheries and ecosystem data in a coordinated and integrated manner that facilitated their inclusion in global ocean observation systems. Ecological observing systems were maintained in each of its eight regional ecosystems so that data and information could be collected, processed and stored in regional databases for analysis. The data, except fish catch data, were freely available for exchange, and the observing systems were included in the Global Ocean Observing System and Global Earth Observing System of Systems. The United States was committed to the establishment of an integrated and comprehensive ocean observing system that collected and allowed interpretation of information on fishery resources, protected species, other biota, hydrographic measurements, productivity, toxics and other measurements relevant to informing an ecosystem approach. To support that initiative, it was moving to upgrade science-

based decision-making by stimulating the development and testing of tools, including advanced geographical information systems.

101. Some States also cited activities and efforts in regional fisheries management organizations and arrangements to adopt and implement ecosystem approaches. New Zealand noted developments in CCAMLR, CCSBT and WCPFC, and in the establishment of SPRFMO. Panama participated in programmes to conserve associated and dependent species, and the United States reported on its role in actively promoting the application of an ecosystem approach in regional fisheries management organizations and arrangements.

102. Some States were also working to develop ecosystem approaches in other regional organizations. The European Community was participating in the elaboration of the quality status report of the Convention for the Protection of the Marine Environment of the North East Atlantic, which addressed the quality of the ocean in the north-east Atlantic contributing to a better implementation of the ecosystem approach. The United States was working to broaden the remit of existing ocean governance institutions, and noted the need to establish broad-based ocean councils to coordinate management planning across a wide span of issues. It was also engaged in delineating regional ecosystems and developing guidelines for regional marine ecosystem approaches to management, and was facilitating the establishment of large marine ecosystem monitoring and assessment projects around the world, funded by GEF.

103. *Achieving compatible measures*. The Review Conference recommended that States take measures to improve cooperation to ensure the compatibility of measures for areas under the national jurisdiction of coastal States and measures for the high seas. Several States, with interests both as coastal States and high seas fishing States, expressed support for compatible measures for the high seas and for areas under national jurisdiction.[94] States also reported taking measures to manage fishing activities in their exclusive economic zones and participating in international frameworks, including regional fisheries management organizations and arrangements, for the management of high seas fisheries.[95]

104. In emphasizing the importance of data sharing in developing compatible measures, New Zealand reported that it worked through regional fisheries management organizations and arrangements to develop procedures for the sharing and management of data on catches and landings. It expressed support for the initiative by the tuna regional fisheries management organizations and arrangements to develop common rules and procedures for the handling and dissemination of data to allow a free exchange of non-public domain data within and potentially across regional fisheries management organizations. Workshops had been planned by the tuna regional fisheries management organizations to standardize and improve approaches to monitoring, control and surveillance, address by-catch issues and improve coordination on science.

105. Norway noted that, in implementing compatible measures, NEAFC took into account the total allowable catch set by relevant coastal States when deciding on quotas for the high seas. With the consent of the relevant coastal State, NEAFC also managed oceanic redfish both within areas under national jurisdiction and in the

[94] Canada, Japan, New Zealand, Norway, Panama, United States.

[95] Canada, Indonesia, New Zealand, Mauritius, Panama, United States.

high seas Regulatory Area, where fishing for deep-sea species was based on an effort reduction of 35 per cent. The United States supported efforts in regional fisheries management organizations and arrangements to promote compatibility, and it had worked to ensure that the treaty establishing SPRFMO included an article on compatibility consistent with article 7 of the Agreement and that the need for such cooperation was reflected in other parts of the text.

106. Other coastal States reported on unilateral or bilateral initiatives to promote cooperation with flag States whose vessels fish on the high seas. Kenya signalled the need for more cooperation from flag States in submitting data and on enforcement and reported the development of a fishing agreement with the European Union to achieve cooperation. Mozambique conducted formal meetings with foreign fishing partners to explain measures to implement the Agreement and other international agreements with respect to legal requirements for the management of highly migratory fish stocks. Sri Lanka reported that measures had been taken to amend its national legal framework to be compatible with international obligations.

107. One State non-Party indicated that its fisheries legislation provided for the applicability of regulations for the conservation and rational exploitation of fisheries beyond 200 miles to straddling fish stocks that were migrating towards adjacent waters or were moving from those waters towards the coast, and required promotion of the adoption of international agreements and mechanisms in order to encourage other States to comply with those standards.[96] Another State non-Party referred to the negotiation of the Galapagos Agreement within the framework of CPPS to regulate straddling fish stocks in the south-east Pacific, which had been ratified by some States members of CPPS but had not yet entered into force.[97]

108. *Developing area-based management tools*. The precautionary and ecosystem approaches are complemented by area-based management tools, including closed areas, marine protected areas and marine reserves, as well as criteria for their implementation, which are crucial for the conservation and management of fish stocks and protection of habitats, marine biodiversity and vulnerable marine ecosystems. States reported the development and use of a range of area-based management tools at international, regional and national levels.

109. At the international level, States highlighted their participation in the adoption of the FAO International Guidelines for the Management of Deep-sea Fisheries in the High Seas, which encouraged action through the closure of areas to bottom fisheries in order to ensure the long-term sustainability of deep-sea fish stocks, prevent significant adverse impacts on vulnerable marine ecosystems and protect biodiversity in the marine environment. Canada reported on its support for scientific research and international collaboration to deliver on the commitments made through the United Nations to protect vulnerable marine ecosystems and biodiversity in the high seas from significant adverse impacts.

110. At the regional level, several States referred to the adoption of measures by regional fisheries management organizations and arrangements, including closed areas as area-based management tools for bottom fishing and the protection of vulnerable marine ecosystems and designated species. States highlighted, in particular, measures taken by CCAMLR to prohibit deep-sea gillnetting and bottom

[96] Peru.
[97] Chile.

trawling, collect vulnerable marine ecosystem indicator data and abide by resulting closures; closed areas, marine protected areas and marine reserves established by ICCAT and IATTC; identification and protection of vulnerable marine ecosystems by NAFO; areas closed to bottom fishing in the area of the NEAFC Convention (Convention on Future Multilateral Cooperation in North-East Atlantic Fisheries); implementation of interim measures for the North-west Pacific regional fisheries management organization and SPRFMO; and the WCPFC closure of two high seas enclaves to purse seine fishing.[98] Norway also referred to specific measures on bottom fishing activities adopted in the NEAFC Convention area.[99]

111. Several States reported on actions taken at the national level to develop area-based management tools,[100] including temporal or area closures and gear restrictions to protect sensitive areas and species. Declarations of marine protected areas were being implemented by Canada, Norway, Panama, Qatar and the United States. Drawing attention to the particular situation of developing States, Kenya reported that it had not developed protected areas for straddling and highly migratory fish stocks due to its incapacity to enforce compliance by foreign fishing vessels.

112. Canada's integrated and ecosystem-based management approach identified areas of special concern that required additional protection, such as vulnerable marine ecosystems, and for which marine protected areas had been or were being established. Voluntary closures had also been instituted by the offshore trawling industry to protect coldwater corals in the Atlantic and Arctic Oceans. Chile reported that it had a national system of marine protected areas and was considering legislation to regulate fisheries in vulnerable marine ecosystems.

113. Norway has adopted new, modernized marine resources legislation that lists principles and concerns for consideration in the management of marine resources and genetic material, provides a legal basis for the establishment of marine protected areas and requires all catches to be landed. It has also established marine protected areas to protect vulnerable marine ecosystems in areas under its national jurisdiction where fishing is restricted or prohibited, and is developing a system of coastal marine protected areas to protect unique nature types.

114. The United States has adopted measures within areas under its national jurisdiction to protect vulnerable marine ecosystems and biodiversity and to manage deep-sea fisheries. Most actions were taken by regional fishery management councils, including seasonally closed areas for various fish stocks and spawning aggregations, as well as closed areas to protect vulnerable habitat. Regulations under its national marine sanctuaries legislation impose restrictions to protect marine ecosystems from fishing activities, including on gear and types of vessel discharges. Several sanctuaries have extensive marine reserve networks, including the Northwestern Hawaii Islands Marine National Monument, which has been designated by IMO as a particularly sensitive sea area with associated protective measures of areas to be avoided, and a ship reporting system. Bottom and pelagic fisheries in the Marine National Monument sanctuary will be phased out by June 2011. Uruguay has been developing a fisheries management project with FAO which

[98] Guatemala, Japan, New Zealand, Norway, Panama, Venezuela (Bolivarian Republic of).

[99] See A/64/305, paras. 55-58, 72, 80-81, 88, 94.

[100] Canada, Chile, Japan, Mozambique, Qatar, United States, Venezuela (Bolivarian Republic of).

includes, inter alia, criteria for management based on an ecosystem approach, and incorporates studies of marine protected areas.

115. *Management of fishing capacity*. Calls by the international community to urgently reduce the capacity of the world's fishing fleets to levels commensurate with the sustainability of fish stocks have intensified. The Review Conference recommended that States commit themselves to this objective through the establishment of target levels and plans or other mechanisms for ongoing capacity assessment. It also stressed the need to avoid the transfer of fishing capacity to other fisheries or areas in a manner that undermined the sustainability of fish stocks, and emphasized the legitimate rights of developing States to develop their fisheries for straddling fish stocks and highly migratory fish stocks.

116. Several States reported on cooperation and activities at the regional level to reduce excess fishing capacity, including promoting capacity assessments and management plans as part of science-based fisheries management.[101] In addition, a number of States reported on national actions to manage fishing capacity. Measures taken in Canada to reduce capacity included publicly funded licence retirement programmes and early retirement programmes. Canada also required vessels to obtain a licence to fish in waters outside areas of national jurisdiction. Chile had assessed the effectiveness of its measures to reduce fishing capacity by setting maximum vessel quotas in line with predefined criteria relating to total allowable catch. Guatemala reported on the development of a draft national programme of action for the management of fishing capacity.

117. Japan reported on efforts to eliminate illegal, unreported and unregulated fishing, including through positive and negative vessel lists maintained by regional fisheries management organizations and implementation of statistical document programmes and trade restriction measures. It was also working with States to reduce excess fishing capacity through reduction of vessels. Indonesia, Kenya and Mozambique reported on their commitment to reduce capacity and, to that end, Kenya was establishing the status of fish stocks under an FAO-Nansen project. Mozambique was developing plans for the reduction of fishing effort of overfished shallow water shrimp stocks, including vessel removal and transfer of effort to large pelagic stocks. Qatar had stopped issuing new fishing licences and limited the number of monthly landings per fishing vessel for certain months of the year.

118. Successful market-based approaches to reduce capacity were reported by New Zealand and Norway. New Zealand's quota management system utilized output controls, rather than capacity controls, to ensure sustainable catches. The system created economic incentives for the reduction of overcapacity, as quota holders were free to seek the lowest-cost means of harvesting their quota. Norway had adopted a structural quota system to reduce capacity, which allowed the owner of two vessels with quotas in the same fishery to merge the quota to one vessel on condition that the other vessel was scrapped. The system ensured that fishing capacity was not transferred to other fisheries or areas, nationally or internationally. Norway monitored the development of fishing capacity through assessment of the number of vessels, size and engine power, but had not established target levels because market-based instruments were expected to assure an industry-driven capacity reduction to a sustainable level.

[101] Japan, New Zealand, United States, Venezuela (Bolivarian Republic of).

119. Panama reported that its merchant marine department was working to eliminate 80 fishing vessels, leaving 160 active high seas fishing vessels. International fishing licences were assigned specific fishing areas to prevent capacity from being transferred between areas. Sri Lanka reported that fleet development plans would be carried out in view of the depleted status of the resources.

120. The United States adopted a national plan of action on the management of fishing capacity with the goal of significantly reducing or eliminating overcapacity in 25 per cent of its federally managed fisheries by 2009. It also conducted overcapacity workshops and assessments of excess fishing capacity in select fisheries, and implemented fishing capacity reduction programmes. The United States also limited capacity in fisheries through the establishment and approval of limited-access privilege programmes, authorized under the Magnuson-Stevens Act, which provided eligible holders the exclusive privilege of harvesting a quantity of fish.

121. *Elimination of subsidies*. As highlighted in the 2008 FAO/World Bank report entitled *The Sunken Billions: The Economic Justification for Fisheries Reform*, fishing subsidies continue to be a major problem for the sustainability and economic viability of the world's fisheries. In 2001, trade ministers met in Doha and mandated negotiators to clarify and improve WTO rules on fishing subsidies. Discussions on fishing subsidies have been oriented towards improved environmental stewardship and sustainable development and have had two key components: a market access element to reduce border measures, mainly tariff barriers, and a fisheries sector-specific negotiation to prohibit and otherwise discipline subsidies that distort trade and promote overfishing and overcapacity.

122. A number of States reported on efforts to reduce or eliminate subsidies that contribute to illegal, unreported and unregulated fishing, overfishing and overcapacity.[102] Canada phased out all contributions aimed at price and vessel support and discouraged subsidies for fishing activities. New Zealand reported that its fishing industry received minimal government support, which was focused on improving the management and environmental performance of the industry and supporting research and development of new seafood products. Norway had eliminated harmful subsidies to the fishing industry and limited its subsidies to social programmes and funds for the decommissioning of small coastal vessels with strict conditions to avoid re-entry into the fisheries.

123. Several States emphasized their active role in the ongoing negotiations at WTO to clarify and improve disciplines on fisheries subsidies.[103] In particular, New Zealand noted its support for a prohibition on certain forms of subsidies that contributed to overfishing and overcapacity. In recent negotiations on new WTO rules, the United States had tabled a proposal for new disciplines to eliminate harmful fisheries subsidies. Chile also referred to discussions on subsidies at the regional level within CPPS.

124. *Lost or abandoned fishing gear and discards*. Several States reported on a range of measures and mechanisms to mitigate the incidence and impact of lost or abandoned gear, retrieve derelict gear and monitor and reduce discards.

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[102] Canada, Guatemala, Japan, Kenya, Mauritius, Mozambique, New Zealand, Norway, Panama.

[103] Canada, Chile, Indonesia, New Zealand, United States.

125. Indonesia continued to promote certain gears to reduce incidental catch and discards, while Japan prohibited fishers from discarding unnecessary gear in accordance with the International Convention for the Prevention of Pollution from Ships, and encouraged them to retrieve lost and abandoned gear in the Japanese exclusive economic zone, for which financial support was provided through a fund. Legislation in Mauritius prohibited dealing with fishing boats and equipment that were likely to become an obstruction or a danger to navigation or the public, were found in a dangerous or hazardous state or were an eyesore. Mozambique had gear-marking regulations that facilitated the identification of abandoned gear and sanctioning of the owner, but more work was needed.

126. New Zealand reported that ghost fishing was considered a low risk in areas under its national jurisdiction, and indicated that soak time limits, gear-marking requirements and gear length limits were in place. It was an offence under New Zealand legislation to discard fish except under specific circumstances, and discarding quota species was an offence as a general rule. Quotas did not generally apply to New Zealand fisheries on the high seas, with the exception of southern bluefin tuna; however, reporting requirements applied as a condition of high seas fishing permits. A government and industry joint working party had been established to review the rules governing discarding, and options to improve existing practices were anticipated.

127. Norway has specific regulations concerning fishing with gill-nets, including provisions on the maximum length of gear and the maximum numbers of nets in the sea at the same time, and a programme for annual retrieval of abandoned and lost gear. Norway has also raised the issue with NEAFC and neighbouring countries, which established an interim prohibition against fishing with gill-nets below 200 metres. Further efforts were needed, particularly concerning retrieval of derelict gear. Panama prohibited the use of drift-nets and has established mechanisms to retrieve abandoned or derelict gear. Sri Lanka reported that it banned the use of bottom set and monofilament gill-nets, discouraged use of gill-nets, and promoted long-line fishing.

128. The United States reported on a major research project to collect data on the loss of blue crab pots and to study the impact of such losses, and on time-lapse research to document animals caught in derelict nets. The United States also reported on localized derelict fishing gear removal efforts, receptacle programmes and projects to identify areas of gear accumulation, determine amounts in federally protected areas and spread removal programmes through coastal States. Research on the impact of derelict fishing gear on species was ongoing and, in 2007, the United States hosted a workshop to address the issue in the wider Caribbean region, resulting in the creation of an action plan to survey States on the scope of the problem under their jurisdictions.

129. Among States non-Parties, Guatemala has conducted a national study on the issue and Qatar is studying the best practices of neighbouring countries in using two types of environmentally friendly fish traps provided with escape panels. Chile imposed severe penalties on owners of vessels that made discards, amounting to steep cuts in their total allowable catch, and Thailand implemented a "Green Fin Programme", in cooperation with a wide range of stakeholders, to collect fish nets, fish traps and debris for cleaner coral reefs, artificial reefs and beaches.

130. *Catch and effort data and fishery-related information.* The timely provision of complete and accurate catch and effort data and fishery-related information is essential for effective fisheries management, and processes need to be developed to strengthen data collection and reporting by members of regional fisheries management organizations and arrangements, including through regular audits of compliance with such obligations. Where such obligations are not met, members should be required to rectify the problem, including through the preparation of plans of action with timelines.

131. Many States reported on domestic requirements for the provision of catch and effort information in areas under national jurisdiction and the high seas,[104] and on compliance with relevant requirements of regional fisheries management organizations and arrangements.[105] Mozambique was making efforts to enforce more detailed and accurate catch and effort reporting and cross-checking of data taken at sea inspections and port landings against catch reports and logbooks, and noted that sanctions had been imposed on industrial and semi-industrial fishing vessels for under-reporting. Norway reported that its system for gathering data on capture fisheries included socio-economic aspects and involved, within ICES, cooperation with other coastal States in the North Atlantic to assess the status and trends of important fish stocks. It also required registration of the quantity and value of all fish sold to processors and an assessment of the socio-economic impact of fisheries through profitability analyses of various vessel groups.

132. Some States also referred to the benefits of specific procedures of regional fisheries management organizations for the sharing and management of data, including mandatory use of vessel monitoring systems,[106] observer programmes[107] and efforts under way in some organizations, such as ICCAT and WCPFC, to address data gaps and assist developing countries in meeting their reporting obligations.

133. Several States reported on activities in the context of FIRMS, which aimed to provide an integrated web-based system for monitoring the status and trends of world fishery resources and their management, using authoritative sources of information. Canada, Chile and Guatemala made annual reports to FIRMS, and Mauritius was making arrangements to become a partner and contribute data. Japan had been helping FAO to develop and strengthen the FIRMS data inventory through capacity-building and technical support to regional fisheries bodies.

134. The United States fully supported the goals of FIRMS programme as a tool to implement the FAO Code of Conduct on Responsible Fisheries and the FAO Strategy for Improving Information of Status and Trends in Capture Fisheries. It had encouraged regional fisheries management organizations and arrangements to enter into partnerships with FIRMS, and assisted FIRMS in efforts to disseminate information about the programme in other suitable forums.

135. States also reported on action taken in regard to information on deep-sea fishing activities. The twenty-sixth session of the FAO Committee on Fisheries had

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[104] Canada, Chile, Japan, Mozambique, New Zealand, Norway, Qatar, Sri Lanka, United States.

[105] Canada, Chile, Guatemala, Indonesia, Japan, Kenya, Mauritius, Mozambique, New Zealand, Panama, Thailand, United States, Venezuela (Bolivarian Republic of).

[106] Canada, New Zealand, Mauritius, Norway, United States.

[107] Canada, Chile, Guatemala, New Zealand, Norway, United States.

requested Member States and regional fisheries management organizations to submit information on deep-sea fish catches by species and size composition and fishing effort. The collection and collation of information concerning past and present deep-water fishing activities had thus been undertaken, including an inventory of deep-water stocks and assessments of the effects of fishing on deep-water fish populations and their ecosystems.

136. Several States reported submitting information to FAO concerning deep-sea fishing activities.[108] Some States also referred to their cooperation with regional fisheries management organizations that required the provision of relevant information on deep-sea fisheries. New Zealand noted that it had undertaken impact assessments pursuant to the SPRFMO interim measures and CCAMLR conservation measures. The United States indicated that most catches on the high seas were reported to regional fisheries management organizations, and it was working to create new regional fisheries management organizations in the Atlantic, Pacific, Arctic and Southern Oceans to collect information concerning past and present deep-water fishing activities and to provide an inventory of deep-water stocks and conduct assessments of the effects of fishing on deep-water stocks and their ecosystems. Other States indicated that they did not have the capacity or were not involved in deep-sea fishing.[109]

2. Measures taken by regional fisheries management organizations

137. *Adoption and implementation of conservation and management measures.* Several regional fisheries management organizations described their strengthened commitment to adopt and fully implement conservation and management measures in accordance with the best available scientific information and the precautionary approach by general reference to the relevant mandate in their respective conventions.[110] Specific activities were also reported by a number of regional fisheries management organizations.

138. CCSBT agreed to reduce the global total allowable catch for southern bluefin tuna by over 20 per cent for three years from 2007, accompanied by changes to domestic management arrangements by Commission members in response to findings of unreported catches and development of new monitoring, control and surveillance measures to reduce the opportunity for illegal fishing. It has also organized extensive technical meetings to update the CCSBT operating model for use in considering a global total allowable catch for the next period. In addition, a draft strategic plan for CCSBT and a rebuilding strategy for southern bluefin tuna stock were being developed.

139. Measures to collect data and information used in taking management decisions were reported by ICCAT, including through the conduct of regular stock assessments on most commercial species of tuna and tuna-like fish and non-target

[108] Japan, New Zealand, Norway, United States.

[109] Guatemala, Kenya, Mozambique, Sri Lanka, Thailand, Venezuela (Bolivarian Republic of).

[110] IOTC (Agreement for the Establishment of the Indian Ocean Tuna Convention); SEAFO (Convention on the Conservation and Management of Fishery Resources in the South-East Atlantic Ocean, preamble); SPRFMO (Convention on the Conservation and Management of High Seas Fishery Resources in the South Pacific Ocean); and WCPFC (Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean).

species of special interest. NEAFC reported that it had recommended regulations and measures setting catch levels for all major fisheries on a precautionary basis. It had also agreed on precautionary measures to close areas to bottom fisheries in order to protect vulnerable deep-water habitats and deep-water corals and formalized procedures for area management. The NEAFC scheme of control and enforcement provided the tools to monitor areas where bottom fishing was prohibited and required real-time information on movements of fishing vessels resulting in efficient deployment of inspection platforms. The NEAFC illegal, unreported and unregulated fishing vessel list and port State control scheme had also operated effectively in the implementation of its conservation and management measures.

140. FFA noted that its members continued to work actively within WCPFC to adopt and implement effective conservation and management measures, and that it had participated in the negotiation process to establish SPRFMO. SEAFDEC reported that it had implemented a programme on tuna data collection in the South China Sea in collaboration with its members to better understand the status of the tuna resources. WCPFC reported that, as of December 2008, three resolutions and 17 conservation and management measures were in effect on a wide range of areas and activities.

141. *Establishment of new regional fisheries management organizations and arrangements*. Initiatives to establish new regional fisheries management organizations and arrangements in the north-west Pacific and the south Pacific and adopt interim measures were in advanced stages. The SPRFMO interim secretariat reported that interim measures were in place for pelagic and bottom fisheries within the area of application of the SPRFMO Convention (Convention on the Conservation and Management of High Seas Fishery Resources in the South Pacific Ocean), and all measures had reporting requirements. Interim measures for pelagic species, which included effort limits, were due to expire at the end of 2009, but new interim measures were expected to be agreed upon to bridge the gap prior to entry into force of the Convention. Interim measures for bottom fishing were to remain in place until the entry into force of the Convention. In that regard, participants had resolved to assess whether individual bottom fishing activities would have significant adverse impacts on vulnerable marine ecosystems, and to manage those activities to prevent such impacts.

142. FFA and WCPFC noted that their respective members had been involved in negotiations to establish SPRFMO. WCPFC also drew attention to the absence of collaborative multilateral arrangements for the conservation and management of highly migratory fish stocks harvested in the South China Sea.

143. *Application of the precautionary approach and ecosystem approaches*. Several regional fisheries management organizations and arrangements provided information on measures or activities that implement or support the precautionary approach and ecosystem approaches.

144. CCAMLR, which applied the precautionary and ecosystem approaches in accordance with requirements under its Convention, had endorsed a precautionary approach for managing bottom fisheries with respect to vulnerable marine ecosystems at its 27th annual meeting in 2008. CCSBT had adopted a wide-ranging recommendation to mitigate the impact of fishing for southern bluefin tuna on ecologically related species, including recommendations to implement the

international plans of action for seabirds and sharks and the FAO Guidelines to Reduce Sea Turtle Mortality in Fishing Operations, collect and report data, and comply with the IOTC and WCPFC binding and recommended conservation measures.

145. FFA had advocated the implementation of the ecosystem approach to fisheries management as a fundamental component of the conservation and management of fisheries within national waters and beyond. Since 2006, a total of $405,000 in direct costs had been expended on its ecosystem approach to fisheries management programmes in FFA member countries, and seven countries had completed the process. GFCM reported on binding decisions on fisheries management and the protection of the marine ecosystem of the Mediterranean, including in relation to a reduction of fishing effort, protection of three deep-sea sensitive habitats, establishment of a fisheries restricted area, adoption of a minimum mesh size for demersal trawlers, prohibition of fishing at depths below 1,000 metres and endorsement of an ICCAT multi-year recovery plan for bluefin tuna in the eastern Atlantic and Mediterranean. ICCAT had endorsed the FAO international plans of action on seabirds and sharks, and adopted specific management measures in that regard.

146. IOTC reported that it had incorporated ecosystem considerations in its work, although there were no express provisions in the IOTC Agreement. IOTC had also recently expanded its data-collection requirements and taken management or mitigation measures relating to the incidental mortality of sharks, seabirds and sea turtles. In 2009, the Commission agreed on implementation of a regional observer scheme, based on national observer programmes, and agreed to prohibit the use of large-scale drift-nets on the high seas. Since 2006, as a precautionary measure, NAFO has closed to bottom fishing all the known seamounts in its Regulatory Area as well as a large coral area on the south end of the Grand Banks. It had also adopted provisions for new fishing areas that foresaw temporary closures of locations where evidence of vulnerable marine ecosystems had been encountered until a scientific assessment was performed that allowed the determination of more adequate permanent measures.[111]

147. SEAFO reported that several conservation measures had been adopted since 2006 to address the ecosystem approach to fisheries in the area covered by its Convention (Convention on the Conservation and Management of Fisheries Resources in the South East Atlantic Ocean). Those measures related to sharks, reducing incidental by-catch of seabirds, management of vulnerable deep-water habitats and ecosystems, fixing catch limits for crabs and toothfish, conditions for the resumption of closed fisheries and bottom fishing activities. In 2007, WCPFC endorsed a recommendation for a three-year research plan on minimizing the risk to non-target species taken during tuna fishing operations. In 2008, it began implementation of an ecological risk assessment research plan. Adoption by WCPFC of conservation and management measures for non-target species reflected a commitment to relevant international guidelines and improved data collection. A conservation and management measure prohibiting fishing with long drift-nets was also adopted in 2008.

[111] See also A/64/305, paras. 54, 70, 71, 78, 79 and 87.

148. A number of regional fisheries management organizations and arrangements also referred to institutional arrangements that addressed ecosystem approaches. In 2009 the CCSBT working group on ecologically related species focused on assessing the risks posed to such species by southern bluefin tuna fisheries. ICCAT established a subcommittee on ecosystems within its scientific committee, and IOTC set up a working party on ecosystems and by-catch to provide advice. SPRFMO reported that a scientific working group had been established to, inter alia, develop a bottom fishing footprint and maps of vulnerable marine ecosystems. The work was being conducted in the context of an interim bottom fishing impact assessment standard, which was being developed taking into account the FAO International Guidelines for the Management of Deep-sea Fisheries in the High Seas. SEAFDEC had promoted the concepts of ecosystem-based approaches to fisheries management and *fishery refugia*, and reported that regional cooperation and policy management for enhancing fisheries resources and conserving fish habitats had been discussed at the regional level.

149. A few regional fisheries management organizations also cited the provisions of their respective conventions that refer to the precautionary approach and ecosystem approaches. CCAMLR noted that article II of its Convention mandated ecosystem and precautionary approaches, which had guided management decisions during its 27-year history. NEAFC referred to relevant amendments to its Convention in 2004 and 2006 that referred to safeguarding marine ecosystems, and required recommendations to apply the precautionary approach and take due account of the impact of fisheries on other species and marine ecosystems and the need to conserve marine biological diversity. The amendments would be applied on a voluntary basis subject to ratification. The SPRFMO Convention included a provision requiring the ecosystem approach to be widely applied.

150. *Achieving compatibility of measures.* A number of regional fisheries management organizations referred to relevant provisions in their respective conventions that provided for compatible measures for the high seas and areas under national jurisdiction.[112] CCSBT reported that its measures for fishing on the high seas and in areas under national jurisdiction were compatible. It pointed out, for example, the application to both areas of the global catch limit and the record of authorized vessels. FFA indicated that a group of its members, the parties to the Nauru Agreement Concerning Cooperation in the Management of Fisheries of Common Interest, had concluded an implementing arrangement in 2008 containing a range of measures applicable to licensed foreign fishing vessels within and beyond areas under national jurisdiction.[113]

151. NEAFC reported that measures adopted for its Regulatory Area were to be compatible with those adopted by coastal States in areas under their jurisdiction. In addition, advice or recommendations provided by NEAFC pursuant to article 6 of its Convention, which allowed NEAFC, at the request of a party, to make recommendations and give advice concerning fisheries within areas under its jurisdiction, would be provided in a compatible manner.

152. ICCAT recalled that its Convention covered all of the Atlantic Ocean and adjacent seas, without distinction between high seas and areas under national

[112] NEAFC, SEAFO, SPRFMO, WCPFC.

[113] See also A/64/305, para. 63.

jurisdiction. IOTC noted that its members applied management measures for stocks falling within its competence throughout the range of distribution. SEAFDEC was working in the South-East Asian region to improve regional and subregional cooperation between and among coastal States for the management of fish stocks.

153. *Development of area-based management tools*. Regional fisheries management organizations described their competence to use certain area-based management tools, such as closed areas, marine protected areas and marine reserves. Competence to adopt closures for species was reported by CCSBT and ICCAT. GFCM, ICCAT, NEAFC and SEAFO reported that they had established closed areas. CCAMLR and NEAFC have imposed gear restrictions relating to area and depth. The SPRFMO Convention includes a mandate to determine general or specific areas in which fishing may occur, as well as to take measures limiting catches and fishing effort. FFA described area-based management tools adopted by its members, including marine protected areas and marine reserves, locally managed marine areas and the application of fishing restrictions in high seas and in areas under national jurisdiction, as a condition of fishing access to the exclusive economic zone.[114]

154. A number of regional fisheries management organizations and arrangements also described area-based management tools adopted in respect of vulnerable marine ecosystems and bottom fisheries. CCAMLR, at its annual meeting in 2008, took a number of decisions in response to the requirements of General Assembly resolution 61/105 to ensure sustainable management of fish stocks and protect vulnerable marine ecosystems from destructive fishing practices.[115]

155. NAFO has taken several steps since 2006 to implement measures that follow the precautionary approach to address the impact of fishing on vulnerable marine ecosystems, including the closure of four seamount areas to commercial fishing; establishment of a coral protection zone; closure of the Fogo Seamounts; and the adoption of a comprehensive framework for the implementation of General Assembly resolution 61/105.[116]

156. NEAFC noted that the current science surrounding temperate area closures was uncertain, so it had moved forward in a precautionary and adaptive manner. NEAFC reported the closure in 2007 of five areas in the Rockall-Hatton Bank area to bottom fishing to protect deepwater corals, and the closure in April 2009 of five areas on the Mid-Atlantic Ridge[117] in the high seas to bottom fisheries to protect vulnerable marine ecosystems from significant adverse impacts.[118] WCPFC referred to the closure of two high seas pockets in the area covered by its Convention (Convention for the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean). At its sixth session, in December 2009, it planned to consider closing two additional high seas pockets from 2010. SPRFMO had developed interim measures that provided for the closure of areas where vulnerable marine ecosystems were known or likely to exist, in order to protect such ecosystems.[119]

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[114] In 2008, Kiribati declared the world's largest marine protected area, the Phoenix Islands Protected Area. The Micronesia Challenge and the Coral Triangle Initiative were also noted.

[115] See also A/64/305, paras. 51, 52, 67-69, 76, 77, 86, 91 and 92.

[116] See also A/64/305, paras. 70, 71, 78, 79, 87 and 93.

[117] The combined size of these closed areas was estimated at 330,000 square kilometres.

[118] See also A/64/305, paras. 55-58, 72, 80, 81, 88 and 94.

[119] Ibid., paras. 158-172.

157. *Management of fishing capacity*. A number of regional fisheries management organizations reported on mandates and activities to reduce the capacity of fishing fleets to levels commensurate with the sustainability of fish stocks. It was noted, for example, that the management principles in the SPRFMO Convention provide for the prevention of excess fishing capacity and empower the Commission to prevent or eliminate excess fishing capacity.

158. At the second joint meeting of tuna regional fisheries management organizations, held in June and July 2009 in San Sebastian, Spain,[120] participants agreed that global fishing capacity for tunas was too high and the problem needed to be urgently addressed. Participants recognized that it was imperative that members of regional fisheries management organizations collaborate at the global level, and that each flag State or fishing entity ensure that its fishing capacity was commensurate with its fishing opportunities as determined by each tuna regional fisheries management organization. They proposed that tuna fishing capacity should not be transferred between regional fisheries management organization areas and, as appropriate, within such areas, unless in accordance with the measures of the organizations concerned.

159. IOTC reported that its members had adopted several measures to control fishing capacity by restricting the growth of vessels for fleets with more than 50 vessels. The decision was extended in 2006 and 2007 to limit the capacity of fleets targeting tropical tunas to the level of 2006, and for albacore and swordfish to the level of 2007. The rights to development of developing coastal States were also recognized by allowing them to present, subject to certain conditions, fleet development plans. ICCAT reported that capacity limits had been set for yellowfin, northern albacore, bigeye tuna and eastern bluefin tuna, and that a working group on capacity had been established in 2007.

160. WCPFC and FFA described capacity reduction efforts in the West and Central Pacific. In WCPFC, resolutions on the reduction of capacity expansion were adopted at the preparatory conferences and at its first session. While seeking to preserve the legitimate fishery development aspirations of small island developing States, those resolutions had not successfully constrained the growth of the purse seine fleet. In order to improve control over fishing effort and to stimulate improved economic returns from the fishery, in 2007 eight parties to the Nauru Agreement had adopted an effort management arrangement for the regional purse seine fleet operating in their exclusive economic zones. The total allowable effort was capped and apportioned among the eight members, who could trade among themselves days and management periods.

161. FFA members adopted a regional tuna management and development strategy which recognized that, where fisheries were approaching or exceeding sustainable limits, there must be a reduction in fishing capacity in the WCPFC Convention area as fleets adjust to restricted fishing opportunities. Such restrictions could be managed in order to increase the value of fishing opportunities. It was the position of FFA members that the fleets of developed fishing States must be reduced or restructured to accommodate the aspirations of small island developing States to develop their own fisheries. Under the strategy, fishing States that failed to adapt

[120] Report of the second joint meeting of tuna regional fisheries management organizations, 29 June-3 July 2009, San Sebastian, Spain, available at www.tuna-org.org/.

would be excluded from fishing in the region. SEAFDEC reported that it had convened several forums to address issues related to reducing fishing capacity in South-East Asian countries in connection with the reduction of illegal fishing activities.

162. *Elimination of subsidies*. ICCAT reported on measures to eliminate subsidies that contributed to illegal, unreported and unregulated fishing, overfishing and overcapacity. Measures to combat illegal, unreported and unregulated fishing, taken over many years, included trade measures applicable to members and non-members.

163. *Lost or abandoned fishing gear and discards*. CCAMLR reported that its review panel concluded that it had taken significant measures to address the effects of lost or discarded material on the marine ecosystem and to differentially encourage the use of fishing gears that have the least environmental impact. ICCAT reported that no measures had been taken to enhance efforts to address and mitigate the incidence and impacts of all kinds of lost or abandoned gear. SPRFMO and WCPFC referred to the relevant provisions in their respective Conventions concerning lost or abandoned fishing gear. Such provisions require minimization of catch by lost or abandoned gear and impacts on other species and marine ecosystems. In addition, WCPFC noted that an information paper on marine debris and the impacts of lost and abandoned fishing gear on the marine ecosystem had been tabled by the United States at its third annual session in 2007.

164. Regarding discards, FFA reported that its members had put in place mechanisms to monitor and reduce discards, primarily through the requirement for observers, catch retention and port sampling programmes. Fishing vessels licensed to fish within areas under the national jurisdiction of FFA members were required to carry an observer throughout a fishing trip. FFA also pointed out that catch retention was a measure first put in place by the parties to the Nauru Agreement and later by WCPFC, and required that all catch be retained on board to prevent the discard of small tunas. In the majority of ports of FFA members, port sampling programmes were in place to record catch and verify compliance with given measures.

165. ICCAT reported that it had adopted some measures aimed at reducing discards by requiring their inclusion in reports of catch statistics. IOTC members discussed the issue of discards in 2009 and agreed that the issue might be revisited if observer data estimated that discard levels were significant. SEAFDEC has promoted responsible fishing technologies and practices specifically focusing on several issues, such as mitigating sea turtle by-catch from longline fisheries, by-catch from the use of fishing aggregating devices in tuna purse seine fisheries and by-catch from trawl fisheries.

166. *Catch and effort data and fishery-related information*. With regard to the provision of catch and effort data and the strengthening of data collection and reporting, CCSBT noted good compliance with scientific data submission requirements by its six members. Members were also providing assistance to one developing State member to strengthen its data-collection arrangements. However, it was noted that determining the accuracy of submitted data was more difficult, and measures were being developed to ensure accuracy, particularly of catch characterization.

167. ICCAT reported that measures had been adopted to ensure data submission in the required format. In addition, its Compliance Committee reviewed submissions of

Contracting Parties each year. The obligation for data reporting in IOTC was expanded in 2002 and 2008. The quality of data submissions was assessed by the secretariat and the relevant working parties, and reports on timeliness and accuracy were submitted to the Scientific and Compliance Committee. Members who did not fulfil the requirements were not required to present a remedial plan of action. For the past seven years, the secretariat had undertaken activities in several developing States to strengthen data collection and processing systems. SEAFO referred to relevant protocols and rules for data collection.

168. NAFO required reports that ranged from entry and exit with catch onboard, to daily or weekly catch reports depending on area and species being fished. The NAFO secretariat prepared an annual report of each member's compliance with the reporting requirements. SPRFMO noted that its Convention provided for audits of members' compliance with data collection and exchange requirements. The SPRFMO consultations have also established interim voluntary standards for the collection, reporting, verification and exchange of data, and some participants have not reported in accordance with the established standards.

169. WCPFC guidelines on scientific data include standards for the provision of operational level catch and effort data. In 2008, WCPFC commissioned a study in recognition of significant issues associated with the poor level of completeness and timeliness of the submission of data. The study identified poor understanding of WCPFC obligations among national data administrators and poor or under-resourced national data-collection systems as the principal impediments. The WCPFC secretariat thus established a data audit facility on its website that provides a public domain report on compliance with data reporting obligations.

170. Advisory bodies such as FFA and SEAFDEC have also been actively promoting the strengthening of fisheries data-collection programmes and standards. FFA reported that it worked with the Oceanic Fisheries Programme of SPC in the collection and analysis of fisheries data. FFA helped its members to comply with WCPFC reporting requirements. SEAFDEC worked closely with FAO to strengthen the collection and compilation of fishery statistics in South-East Asia. It also conducted fishery resources surveys and data-collection in the exclusive economic zones of member States to better understand the status of the region's fishery resources.

171. Several regional fisheries management organizations reported on their relationship with FIRMS. CCAMLR, CCSBT, ICCAT, IOTC, NEAFC, SEAFDEC and SEAFO reported partnerships, while SPRFMO and WCPFC reported observer status and FFA indicated its members were expected to provide information for FIRMS directly to FAO or through SPC. In addition, CCSBT and NEAFC indicated that they had provided information to FIRMS in various forms, including annual submissions, fact sheets and ad hoc input on request.

172. With respect to deep-sea fish catches, information on such catches did not fall within the mandate of some responding regional fisheries management organizations, but cooperation with FAO in the exchange of relevant data was described by ICCAT, NEAFC, SEAFO and SPRFMO. IOTC noted that, in the absence of a SIOFA secretariat, it had acted as a repository for the data that SIOFA members wished to report according to agreed formats. NEAFC reported that its recommendation for information on measures established for deep-sea species in the NEAFC Convention area and submission of scientific information on deep-sea

fisheries was now the format for reporting on deep-sea fisheries to ICES. SEAFDEC reported that it had initiated projects on deep-sea resources exploration in the South-East Asian region in 2008.

173. FFA noted that only a few members were involved in deep-sea fishing activities; however, its members were actively participating in the negotiation of the SPRFMO Convention to make provision for the regulation of deep-sea fishing.

3. Activities undertaken by the Food and Agriculture Organization of the United Nations

174. FAO has undertaken a number of significant activities in relation to the recommendations adopted by the Review Conference, including initiatives related to the ecosystem approach to fisheries, the FIRMS partnership, deep-water fishing activities, the establishment of arrangements for the collection and dissemination of data and the revision of global fisheries statistical data.

175. *Ecosystem approach to fisheries*. Most of the work of FAO in this domain was dedicated to promoting and monitoring responsible fisheries development and management, consistent with the FAO Code of Conduct on Responsible Fisheries. Guidelines on the implementation of the ecosystem approach to fisheries have been produced, and technical documents covering a wide spectrum of aspects, from ecosystem modelling to human aspects of the ecosystem approach, have also been produced. Additional guiding documents, including a toolbox and a review of indicators for the ecosystem approach, were under development.

176. Owing to the availability of extrabudgetary funding, FAO has helped member States and regional fisheries management organizations and arrangements to introduce principles and methodologies for implementation of the ecosystem approach to fisheries, including through (a) an ecosystem approach to fisheries-Nansen project, "Strengthening the Knowledge Base for Implementing the Ecosystem Approach to Marine Fisheries in Developing Countries", which had a main focus on Africa; (b) the project "Capacity Building for an Ecosystem Approach", which provided extended capacity-building to selected member States; and (c) large marine ecosystem projects co-funded by GEF, in which FAO took the lead or collaborated.

177. In addition, FAO has promoted the ecosystem approach to fisheries in a number of regional fisheries management organizations and arrangements, including APFIC, COPESCAL, GFCM and SWIOFC. GFCM has a significant ecosystem approach to fisheries programme, which includes a ban on all trawling activities for the entire Mediterranean region below 1,000 metres in depth, creating, de facto, the world's largest marine protected area. Collaboration has also been ongoing with SPC and two workshops have been held in the Pacific islands aimed at introducing relevant principles and methodologies to the region.

178. *Fishery Resources Monitoring System*. FAO officially launched FIRMS in February 2004 in cooperation with 13 international organizations, providing an integrated web-based system for monitoring the status and trends of world fishery resources and their management. The FIRMS website contains an inventory of approximately 1,000 fish stocks under the monitoring mandate of regional fisheries management organizations affiliated with FIRMS, of which 40 per cent have information available on status and trends.

179. A new fisheries module providing information on fishing activities, management actions and socio-economic performance was recently released and additional modules are being developed to address other key topics, such as ecosystem-based fishery management. In 2008, the fifth FIRMS Steering Committee meeting determined that efforts should focus on developing a comprehensive and updated database by ensuring that partners' contributions are complete and by inviting additional regional fisheries bodies to join the partnership to fill information gaps. The next meeting of the Steering Committee, in February 2010, will take strategic decisions regarding the System's information products, based on an understanding of its target clients and their expectations.

180. *Deep-water fishing activities.* FAO published the *Worldwide Review of Bottom Fisheries in the High Seas* in 2008 in response to a request made by the FAO Committee on Fisheries at its twenty-sixth session and the consideration of bottom fisheries on the high seas by the General Assembly at its sixty-first session (see resolution 61/105). The review was partly the result of a survey in which the main deep-sea high seas fishing nations of the world and relevant regional fisheries management organizations participated, and partly the result of extensive consultations with stakeholders.

181. The FAO International Guidelines for the Management of Deep-sea Fisheries in the High Seas were also developed through extensive consultations with stakeholders and were adopted by FAO members in August 2008. As part of a specific programme, FAO was planning activities to facilitate the implementation of the International Guidelines. Collaborative work with partners would be an important element of the programme.[121]

182. *Data arrangements and the global fisheries statistics database.* Where there was no relevant regional fisheries management organization, FAO encouraged processes for their establishment in order, inter alia, to collect and disseminate data in accordance with article 7 of annex I to the Agreement. FAO indicated that a necessary first step in that regard was the identification by States Parties to the Agreement of areas where there was no relevant organization.

183. In regard to global statistics on fisheries, FAO noted that its fisheries statistics programme had been established to monitor the contribution of fisheries and aquaculture to food security and other socio-economic factors, not for the assessment of stock status and fisheries management. It also pointed out that the Agreement clearly indicated the primary responsibility of regional fisheries management organizations for the compilation and dissemination of data required for stock assessment and management.

184. In order to address the need for global capture statistics with catch location of higher resolution, FAO has proposed to develop an infrastructure to enable integration and globally unified dissemination of all catch data collected and maintained by FAO, regional fisheries management organizations and other subregional and regional arrangements, which was accepted by the twenty-second session of the Coordinating Working Party on Fishery Statistics. In 2007, FAO conducted a small feasibility study to develop a basic system design and identify potential problems. A prototype is currently under development, which will be

[121] See also A/64/305, paras. 194 and 195.

presented to the twenty-third session of the Coordinating Working Party on Fishery Statistics in 2010 for review and feedback.

4. Analysis of the extent to which the recommendations of the Review Conference have been implemented

185. Since the Review Conference in 2006, States and regional fisheries management organizations have adopted and implemented numerous conservation and management measures in respect of straddling fish stocks and highly migratory fish stocks, including interim measures for areas where regional fisheries management organizations or arrangements had yet to be established. Evaluation of the effectiveness of these conservation and management measures presents certain challenges owing to the insufficiency of scientific and other relevant information.

186. Considerable attention has been devoted to the establishment of new regional fisheries management organizations and arrangements in the Pacific Ocean region. Initiatives to establish two such organizations with a mandate over the high seas were in advanced stages, and States have agreed on relatively robust interim measures that incorporate precautionary and ecosystem approaches. In the South Pacific Ocean, the parties to the Nauru Agreement also agreed in 2009 to establish an office and to adopt further minimum terms and conditions of fisheries access for foreign fishing vessels. The measures are applicable to highly migratory fish stocks and may relate to high seas fishing.

187. States and regional fisheries management organizations reported substantial activity in the implementation of the precautionary and ecosystem approaches. Some States reported both long-standing and recent measures to protect habitats of specific concern in areas under national jurisdiction, and a number of regional fisheries management organizations have taken action to identify vulnerable marine ecosystems. Less information was received from States on action to conserve associated and dependent species. Most regional fisheries management organizations reported actions to endorse or adopt measures relating to sharks, seabirds and turtles and other ecologically related species, as recommended in FAO international plans of action and guidelines or identified in risk assessment studies by relevant regional fisheries management organizations.

188. Several regional fisheries management organizations referred to provisions in their respective conventions on achieving compatible measures for the high seas and for areas under national jurisdiction. States generally worked through regional fisheries management organizations to achieve compatible measures, underlining the importance of sharing data and cooperation among relevant organizations to adopt compatible processes. It was not possible to assess the extent to which compatible measures had been achieved in accordance with article 7 of the Agreement.

189. Several States reported on the use or development of area-based management tools in areas under national jurisdiction. Some information did not relate directly to straddling or highly migratory fish stocks, but merely reflected support by States for such tools. Regional fisheries management organizations reported on the adoption of a wide range of area-based management tools. Many responses from States and regional fisheries management organizations did not directly address biodiversity.

190. A significant number of States reported a reduction in excess capacity of their fishing fleets, including through market-based systems. Many of the initiatives predated 2006, but appeared to have continuing effectiveness. Many States with large fishing fleets did not provide information in this regard, and it was not possible to assess the urgency with which the issue had been addressed. Regional fisheries management organizations had devoted considerable attention to the reduction of excess fishing capacity, including at the joint meetings of tuna bodies, and had taken relevant measures, such as the restriction of fishing opportunities. The question of subsidies was addressed to a considerably lesser extent and in a less tangible manner, with a few States reporting on long-standing policies that prohibited such subsidies.

191. Many States identified work in progress to address and mitigate the incidence and impacts of lost or abandoned gear. Mechanisms to monitor and reduce discards were being developed, but establishment of mechanisms for the regular retrieval of derelict gear was not addressed and remained outstanding. Similarly, only a few regional fisheries management organizations had taken action in this regard and others simply referred to relevant provisions in their conventions.

192. Many States and regional fisheries management organizations reported on the provision of catch and effort data and fishery-related information in a timely way and the strengthening of data collection and reporting, which was clearly a problem area. Strengthening compliance by members of regional fisheries management organizations remained a significant concern, and efforts to improve relevant activities were increasing, including activities to determine the accuracy of information, ensure submission in the proper format, agree on protocols, rules and interim voluntary standards, study data gaps and their causes and provide assistance to developing States. Detailed information was not available on current activities to undertake an inventory of deep-water stocks and an assessment of the effects of fishing on deep-water fish populations and their ecosystems.

193. There were some developments by regional fisheries management organizations in relation to the recommendation for regular audits of compliance by members with reporting and information obligations. The SPRFMO Convention provides for audits of compliance by members with data collection and exchange requirements, and WCPFC has established a data audit facility on its website that provides a public domain report for compliance with data reporting obligations by members. This could be an important area of focus, as many respondents and the findings of performance reviews have identified compliance with data requirements as in need of significant improvement.

194. FAO has supported implementation of the recommendations adopted by the Review Conference through its work on the ecosystem approach to fisheries, FIRMS and deep-water fishing activities, and by encouraging data arrangements and proposing an infrastructure for a global fisheries statistics database based on information, inter alia, from regional fisheries management organizations. An objective of the latter, which was to integrate global catch statistics with catch location of higher resolution, would be a significant asset in evaluating the implementation of the Agreement. However, given the difficulties already experienced by several regional fisheries management organizations in the collection of data and the recommendation of the Review Conference for audits of data submissions, further actions and measures may be needed to ensure that States

provide data to regional fisheries management organizations in a timely, accurate and effective manner in order to enhance information at the global level.

B. Mechanisms for international cooperation and non-members

195. In 2006, the Review Conference emphasized that international cooperation was necessary for the effective and long-term conservation and management of straddling fish stocks and highly migratory fish stocks, and recalled that the Convention and the Agreement provide the framework for such cooperation by States directly or through regional fisheries management organizations and arrangements. Cooperation was also required to modernize and strengthen regional fisheries management organizations to ensure robust and systematic approaches in international fisheries governance.

1. Measures taken by States

196. *Strengthening mandates and measures in regional fisheries management organizations and arrangements*. The Review Conference highlighted the importance of strengthening the mandates of, and measures adopted by, regional fisheries management organizations and arrangements to implement modern approaches to fisheries management, including through performance reviews and best-practice guidelines. All responding States reported on their participation in regional fisheries management organizations and arrangements, and several States provided examples of specific initiatives to strengthen the functioning and mandates of certain organizations.[122] Efforts were taken in NAFO and NEAFC to amend the Conventions and broaden the scope and application of the mandates of these regional fisheries management organizations, taking into account modern approaches to fisheries management and relying on the best scientific information available. Canada reported that reforms in NAFO had included the creation of new bodies to identify vulnerable marine ecosystems and assess and mitigate effects of fishing activities, the adoption of new management measures and a commitment to additional science to support decision-making. The European Community reported on its efforts to strengthen CCAMLR and GFCM. The United States has been actively engaged in negotiations to establish new regional fisheries management organizations in the North and South Pacific Oceans, where it has proposed strong treaty provisions on the application of the precautionary approach and other modern fisheries management tools and approaches.

197. States also reported on efforts to strengthen the implementation of modern approaches to fisheries management in regional fisheries management organizations, including by complying with conservation and management measures adopted by such organizations. Canada supported research efforts in NAFO, in particular, on the location of corals and sponges in the NAFO Regulatory Area, and Japan contributed to the introduction of science-based conservation measures in regional fisheries management organizations. New Zealand reported that the SPRFMO interim measures and interim data standards took into account an ecosystem approach and the precautionary approach in their implementation. The United States noted that it was required to promote relevant provisions of the Magnuson-Stevens Act in any regional fisheries management organization that did

[122] Canada, European Community, New Zealand, Norway, United States.

not have a process for developing a formal plan to rebuild an overfished stock or a stock that was approaching a condition of being overfished.

198. Some States also emphasized the need for decisions in regional fisheries management organizations and arrangements to be based on the best scientific information available, and to apply the precautionary approach. Panama supported decisions in regional fisheries management organizations that relied on the best scientific evidence available and the application of the precautionary approach when necessary. Uruguay had stressed the need for transparent and participatory decision-making processes in the development of the FAO Model Scheme on Port State Measures to Combat Illegal Unreported and Unregulated Fishing (FAO Model Scheme) and in the second joint meeting of tuna regional fisheries management organizations.

199. In terms of regional initiatives, Japan had held the first joint meeting of the tuna regional fisheries management organizations in Kobe, Japan, in January 2007.[123] The outcomes included a series of recommendations to strengthen communication and coordination among tuna regional fisheries management organizations. (The meetings of the tuna organizations are also referred to as "the Kobe process" in the present report.) Kenya was a member of a regional task group on the ecosystem approach to fisheries that had the objective of developing fisheries with a regional approach.

200. Several States also reported on efforts to urge regional fisheries management organizations to undergo performance reviews, to encourage the inclusion of some element of independent evaluation in such reviews, and to ensure that the results were made publicly available, as recommended by the Review Conference (see sections 2 and 3 below).[124]

201. Some States noted that the review process had also contributed to the improvement of performance of the regional fisheries management organizations by prescribing the implementation of best practices, as recommended by the Review Conference.[125] States generally welcomed and supported the development of best-practice guidelines and the application of those guidelines in regional fisheries management organizations in which they participated. Canada reported providing substantial funding for the development of the Chatham House recommended best practices for regional fisheries management organizations, which had become a key foundation document for the performance reviews of several organizations, including ICCAT. New Zealand indicated that it was working within regional fisheries management organizations such as CCAMLR, CCSBT, SPRFMO and WCPFC to encourage the inclusion of provisions that accord with best-practice guidelines. Sri Lanka indicated that it was working closely with IOTC to formulate best-practice guidelines for fisheries management.

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[123] Report of the joint meeting of tuna regional fisheries management organizations, 22-26 January 2007, Kobe, Japan, available at www.tuna-org.org/Documents/other/FinalReport-Appendices.pdf.

[124] Canada (ICCAT, NAFO); Chile (CCAMLR); Guatemala (IATTC and ICCAT); Japan (CCSBT, IATTC, ICCAT, IOTC and WCPFC); Mauritius (IOTC); New Zealand (CCAMLR, CCSBT and WCPFC); Norway (CCAMLR, ICCAT, NEAFC and SEAFO); United States (CCAMLR, CCSBT, IATTC, ICCAT and IOTC); Venezuela (Bolivarian Republic of) (ICCAT).

[125] Japan.

202. *Strengthening and enhancement of cooperation among regional fisheries management organizations and arrangements*. Cooperation among regional fisheries management organizations and arrangements has strengthened in recent years and States have supported this trend among existing and developing organizations and arrangements, including through increased communication and coordination of measures. States noted their general support for efforts to facilitate the exchange of information and coordination of management measures. Some States also made reference to formal cooperation arrangements between regional fisheries management organizations, such as CCAMLR and WCPFC, and to requirements in the SPRFMO Convention for cooperation with other regional fisheries management organizations. Chile promoted and facilitated cooperation between the SPRFMO process and WCPFC, which was expected to increase following the adoption of the convention. New Zealand noted that IATTC and WCPFC had met for a fourth consultation during the fifth meeting of WCPFC in December 2009. Norway indicated that NAFO and NEAFC were coordinating efforts, in particular concerning illegal, unreported and unregulated fishing, and that the two regional fisheries management organizations had also harmonized measures concerning port State control.

203. Many States referred to their participation in and support of the joint meetings of the tuna regional fisheries management organizations. The first joint meeting, held in 2007, adopted a course of action, including a series of recommendations to strengthen communication and coordination among the tuna regional fisheries management organizations. The second joint meeting was held in 2009, and Japan reported that it had played an important role in facilitating the discussions and had led a workshop to review progress after the first joint meeting.

204. Some States noted that agreement had not yet been reached to hold consultations of members of regional fisheries management organizations and arrangements with the competence to manage straddling fish stocks to exchange views on key issues, although support was expressed for such an initiative. New Zealand expressed commitment to exploring ways to coordinate and harmonize measures across regional fisheries management organizations to improve their effectiveness and efficiency, if such approaches were based on best practices and did not impose limitations on future improvements in those organizations. Panama called for increased communication and further coordination of conservation and management measures adopted by all regional fisheries management organizations. As a State non-Party, Guatemala indicated that the purpose of cooperation between regional fisheries management organizations should be the conservation and management of fish stocks, and emphasized that confidentiality of commercial information must be respected.

205. With regard to monitoring, control and surveillance, Kenya reported that it actively participated in regional initiatives covering south-west Indian Ocean waters. To enhance regional cooperation, Mozambique has developed a concept paper for an informal regional head of operations network to promote timely exchange of operational information and timely regional responses to illegal, unreported and unregulated fishing activities. SWIOFC has endorsed the idea, but funding has not yet been found. Sri Lanka reported that close communication with regional organizations was enhanced by participation in regional meetings and workshops and cooperation in implementing major programmes, such as a tuna tagging programme, and catch statistics collection.

206. Some States non-Parties noted, more generally, their membership and participation in regional fisheries management organizations. As a member of IATTC, Peru noted benefits from the exchange of data and information to facilitate decision-making on fisheries conservation and management measures at technical and annual meetings.

207. *Participation in regional fisheries management organizations and arrangements*. The Review Conference highlighted the need to address participatory rights and allocation issues in regional fisheries management organizations and arrangements including accommodating the interests of new members and developing States to participate in high seas fisheries. It also emphasized the need to address problems of non-compliance by members and cooperating non-members, and fishing by non-members, which continued to undermine the effectiveness of adopted conservation and management measures. The Review Conference recommended the development of transparent criteria for allocating fishing opportunities, the establishment of mechanisms to promote the participation of non-members fishing in the area of competence of a regional fisheries management organization or arrangement, and the provision of incentives to encourage non-members to join.

208. Several States provided information on their active participation in the development of transparent allocation criteria in regional fisheries management organizations.[126] New Zealand emphasized the need for developing transparent criteria and implementing processes to apply those criteria and reach conclusive outcomes with respect to the specification of participatory rights and allocation of fishing opportunities. It supported the decision of the second joint meeting of tuna regional fisheries management organizations to convene a workshop on improving fisheries management within the regional organizations and to explicitly address the issue of allocation. Norway recognized the allocation criteria developed in ICCAT, but noted that attempts to agree on criteria in other regional fisheries management organizations had been unsuccessful. Some States referred to requirements under national laws in allocating fishing rights[127] and it was reported that each FFA member had national criteria for allocating participatory fishing rights accommodated in national legislation and policy.

209. Several States reported on their activities to encourage non-members or non-participants to cooperate with relevant regional fisheries management organizations and arrangements by agreeing to apply their conservation and management measures or by joining them.[128] Japan reported positive results from bilateral discussions on the importance of cooperating with regional organizations in the implementation of fisheries management measures and the prevention of illegal, unreported and unregulated fishing.

210. A number of States supported the development of measures to secure the commitment of cooperating non-member States to apply conservation and management measures, provide required data and participate in monitoring, control and surveillance programmes. New Zealand noted that WCPFC required cooperating non-members to comply with all measures adopted by the Commission, provide data required from members and inform the Commission of measures taken

[126] Chile, Mauritius, New Zealand, Norway, Panama, Sri Lanka, United States, Uruguay.

[127] Guatemala, Indonesia, Japan, Mauritius, Mozambique, Venezuela (Bolivarian Republic of).

[128] Guatemala, Japan, Mauritius, New Zealand, United States, Venezuela (Bolivarian Republic of).

to ensure compliance by vessels flying their flags with measures adopted by the Commission. WCPFC also provides strong incentives for non-members to become cooperating non-members and have their vessels placed on the list of fishing vessels. Vessels not included in the record of fishing vessels were deemed not to be authorized to fish beyond their flag State's area of national jurisdiction. Commission members were required to prohibit such fishing by non-members and to treat it as a serious violation. Mauritius similarly noted that vessels not on the authorized list in IOTC were considered to be illegal, unreported and unregulated fishing vessels and not authorized to use any port facility for unloading catch.

211. The United States played a key role in the development of measures for cooperating non-member status in ICCAT and WCPFC that promoted cooperation with those organizations and secured a commitment to apply adopted conservation and management measures, provide all required data and participate in monitoring, control and surveillance programmes. It also supported the development of financial mechanisms to promote the participation of developing States in regional fisheries management organizations, build capacity and improve data collection and sharing, including by providing initial funds of $200,000 to the Assistance Fund established under Part VII of the Agreement, and providing financial assistance to developing States in WCPFC and ICCAT.

212. Among the States non-Parties, Guatemala referred to its participation in the negotiations of the 2003 Antigua Convention, which greatly simplified access by other States to IATTC. Guatemala has not provided direct incentives to non-member States, but it has participated actively in the regional work carried out within the OSPESCA framework to develop capacity.

213. Some States also reported on actions taken to participate in regional fisheries management organizations. Mozambique was taking measures to join relevant regional fisheries management organizations having competence in its geographic region and to enhance its priority and historical precedence for future access. Panama has applied for cooperating non-party status in the various regional fisheries management organizations in which its vessels are fishing and have established a history of fishing.

214. *Decision-making rules and procedures*. Decision-making rules and procedures in regional fisheries management organizations and arrangements are critical to ensuring clear agreement on conservation and management measures and their effective implementation. The Review Conference recommended that rules and procedures should be effective and transparent and prevent States from acting in a manner that undermines conservation.

215. States were increasingly committed to effective decision-making procedures and rules and some of them reported actively participating in the negotiation or renegotiation of constitutive instruments of regional fisheries management organizations with a view to restricting the possibilities of opting out and requiring alternative measures and adequate processes for resolving disputes.[129] Norway noted that the amended NAFO and NEAFC Conventions contained provisions that restricted the possibilities of opting out, as well as a requirement to describe alternative measures and adequate processes for resolving disputes. The United States noted that the negotiations for the new regional fisheries management

[129] Canada, New Zealand, Norway, United States.

organizations in the North and South Pacific had considered clear processes for dispute resolution and a robust set of rules that would prevent parties that opt out from undermining conservation and management measures, by requiring alternative measures that would be implemented during an interim period.

216. In dealing with post-opt-out behaviour, Guatemala highlighted its efforts to limit exceptions in an IATTC resolution that provided for increases in purse seine fleets. Mozambique noted that the threat of trade sanctions had become the key tool to address this issue and could be an effective measure if utilized carefully and equitably.

217. All responding States supported transparency of regional fisheries management organizations and arrangements, both in terms of decision-making that incorporated the precautionary approach and best scientific information available, and providing for reasonable participation by intergovernmental and non-governmental organizations. Norway noted that all regional fisheries management organizations of which it was a member had established adequate means to provide for transparency. Some States also noted that criteria used in many performance reviews had focused on decision-making, the use of the precautionary approach, the use of scientific advice and the inclusion of intergovernmental organizations in the processes of regional fisheries management organizations. Canada noted that the Working Group on the Future of ICCAT had recommended that the precautionary and ecosystem approaches be considered in the Commission's decision-making process, and that the precautionary approach be included as a priority issue for a review of the ICCAT Convention for possible revision.

218. *Exercise of effective control by flag States*. The Review Conference expressed the need for cooperation to examine and clarify the role of the "genuine link" in relation to the duty of flag States to exercise effective control over vessels flying their flag. In that regard, States recognized the importance of examining the issue and the challenges of resolving it. Some responding States noted their active participation in the FAO initiative to develop criteria for assessing the performance of flag States and possible actions against vessels flying the flags of States not meeting such criteria.[130] As a contribution to the FAO process (see para. 398 below), an expert workshop on the performance of flag States, hosted by Canada and Iceland, was held in Vancouver, Canada, in March 2008, with technical support from FAO. At the workshop, several experts agreed that the concept of "genuine link" was difficult to define, but that efforts should continue. They also noted that it would be useful to have a parallel exercise based on the rights and duties of vessel owners and operators, along with those of the flag State.

219. Some States expressed their general willingness to cooperate with States and regional fisheries management organizations and arrangements to clarify the role of the "genuine link" in relation to the duty of States to exercise effective control over fishing vessels flying their flags. Mozambique supported such activities, as flag State controls had proven ineffective to date in controlling illegal, unreported and unregulated fishing, but it noted that some of the more developed countries that were espousing strong measures against illegal, unreported and unregulated fishing were also prominent offenders.

[130] New Zealand, Norway.

220. Other States also reported on established national mechanisms to exercise effective control over vessels.[131] Japan emphasized the need for an effective vessel and fishing licensing system and extensive coordination among different databases that contain information pertaining to the issue of the genuine link. New Zealand referred to requirements under its Ship Registration Act and its Fisheries Act, which effectively secured the genuine link necessary for effective regulatory control over ships operating outside its exclusive economic zone. Norway noted that control of fishing vessels on the high seas was addressed in its Marine Resources Act, which incorporated the "genuine link" concept.

221. *Fisheries of developing States*. Cooperation with developing States played a prominent role in the Agreement, and several States reported taking concrete measures to enhance the ability of developing States to develop their fisheries for straddling fish stocks and highly migratory fish stocks, including by facilitating access to such fisheries, consistent with article 25 of the Agreement (see also paras. 427-430 below).

222. Japan provided extensive bilateral fisheries development and promotion assistance to developing States, and made efforts to enhance the capacity of developing States by providing technical assistance and making voluntary contributions to regional fisheries management organizations of which it was a member for improving fisheries statistics collection systems and conducting research and analysis of the status of fish stocks and enforcement. Japan also made voluntary contributions to FAO to develop and strengthen international fisheries management capacity.

223. In 2009, New Zealand contributed $NZ 30,000 to the Part VII Assistance Fund to assist developing States in the conservation and management of straddling fish stocks and highly migratory fish stocks. It also engaged with Pacific regional institutions and bilaterally to provide support and assistance in the form of capacity-building. The United States led efforts to provide for a financial assistance mechanism in the rules of procedure for WCPFC to ensure the participation of developing States in its meetings and build fisheries management capacity. It also supported efforts within ICCAT to provide financial assistance to developing State members to improve data collection and sharing and to ensure the participation of developing States in scientific meetings. The United States participated actively with other States Parties to the Agreement to establish the Part VII Assistance Fund. It was also noted in this context that developing States had proposed the inclusion of several paragraphs in the Kobe process guidelines to address the right of those States to develop their fisheries for straddling fish stocks and highly migratory fish stocks.

224. Several developing States also reported on their own experience in developing their fisheries for straddling fish stocks and highly migratory fish stocks. Guatemala shared its experience in regional forums on the rational exploitation of fisheries off its coasts, including solutions that could help other coastal developing States to improve their capacities. Indonesia noted that it needed assistance to enhance its ability to develop fisheries for straddling fish stocks and highly migratory fish stocks, including technical assistance and training. Mozambique was developing a strategy for entering the large pelagic fisheries, displacing foreign fishing efforts

[131] Chile, Guatemala, Japan, Mauritius, New Zealand, Sri Lanka.

and controlling fishing to sustainable harvest levels, but revolving credit funding and surveillance and enforcement assets were required to implement the strategy. Sri Lanka was seeking assistance and cooperation to develop its fisheries for straddling fish stocks and highly migratory fish stocks. Thailand has cooperated with various international organizations under bilateral and multilateral technical cooperation programmes. The Bolivarian Republic of Venezuela has taken specific measures to regulate the exploitation of highly migratory fish stocks by national fleets.

2. Measures adopted by regional fisheries management organizations

225. *Strengthening of the mandates and measures of regional fisheries management organizations and arrangements*. All regional fisheries management organizations reported on efforts to strengthen their mandates or measures to implement modern approaches to fisheries management. Some organizations also referred to provisions in their conventions that required modern management approaches and use of the best scientific advice.[132] All responding organizations reported that the precautionary approach was either actively applied or mandated in their respective conventions.

226. In terms of specific actions or measures, CCSBT reported that it had commenced in 2009 to develop a draft strategic plan and a rebuilding strategy for southern bluefin tuna consistent with the Agreement. The work on the rebuilding strategy was the first step in developing a draft fisheries management plan for southern bluefin tuna comprising management objectives for the stock and ecologically related species consistent with modern standards of international fisheries management. ICCAT reported that a working group was scheduled to meet in 2009 to consider ways to strengthen the organization. Relevant amendments were made to the NEAFC Convention in 2004 and 2006, and members agreed to apply the provisions on a voluntary basis until ratification was finalized.

227. FFA reported that its members had cooperated extensively to ensure that the three pillars of effective fisheries management (effective management measures, use of best available science to inform management decisions and effective monitoring, control and surveillance) were addressed through national, subregional and regional arrangements. Although the Agreement does not apply to salmon, NASCO has taken actions consistent with provisions of the Agreement, including by applying the precautionary approach and developing a habitat plan of action consistent with an ecosystem approach.

228. As described in sections 3 (a) and (b) below, an increasing number of regional fisheries management organizations have also undertaken or are planning performance reviews as a means of strengthening their mandates and measures. Most responding organizations did not report on activities to develop best practice guidelines. ICCAT reported that the issue would be considered by its Working Group on the Future of ICCAT in 2009. IOTC reported that its performance review in 2008 and 2009 was based on criteria developed from guidelines for best practices in regional fisheries management organizations. It was noted that the SPRFMO Convention reflected current FAO guidelines, and that participants continued to align the text with best practice guidelines as they developed. WCPFC noted participation by its contracting members in a range of multilateral initiatives that

[132] SEAFO, SPRFMO, WCPFC.

considered best practice guidelines, including at the United Nations, FAO and the biennial meeting of tuna regional fisheries management organizations and through consultations required under formal agreements.

229. *Strengthening and enhancement of cooperation among regional fisheries management organizations and arrangements*. Cooperation among existing and developing organizations has significantly strengthened. The secretariats of the tuna regional fisheries management organizations have held five meetings since the Review Conference, and momentum has increased, inspired by the series of joint meetings since the first joint tuna RFMO meeting in Kobe, Japan, in 2007. Intersessional communications and memorandums of understanding or agreements have developed between organizations. CCSBT entered into memorandums of understanding with IOTC and ICCAT in relation to trans-shipment observer programmes, and with WCPFC for general cooperation. It was also considering establishing a formal relationship with CCAMLR. IOTC executed large-scale research programmes in a cooperative arrangement with IOC and in separate arrangements with institutions of member States to improve data collection in the region. It cooperated with other initiatives to improve fisheries management in the region, such as SWIOFC and the World Bank South West Indian Ocean Fisheries Project, and it maintained formal relationships with WCPFC, CCSBT and ICCAT through memorandums of understanding. WCPFC reported on memorandums of understanding with IATTC, IOTC, CCSBT, CCAMLR and the International Scientific Committee for Tuna and Tuna-like Species in the North Pacific Ocean.

230. Regional fisheries management organizations also reported continuing broad-based cooperation through international organizations and other bodies, or cooperation of a more general nature, including by participation in meetings of the secretariats of the five tuna regional fisheries management organizations.[133] GFCM cooperated with a broad range of international entities dealing with the protection of the marine environment and living marine resources, as well as fishing sector organizations. The IOTC secretariat was a member of the Regional Fishery Body Secretariats Network, coordinated by FAO, and the Coordinating Working Party on Statistics. NEAFC noted continued cooperation among the secretariats of the North Atlantic fisheries organizations,[134] and the global Regional Fishery Body Secretariats Network. NEAFC noted its participation as an observer in meetings of the FAO Committee on Fisheries, the United Nations Open-ended Informal Consultative Process on Oceans and the Law of the Sea, the Ad Hoc Open-ended Informal Working Group to study issues relating to the conservation and sustainable use of marine biological diversity beyond areas of national jurisdiction, and informal consultations of States Parties.

231. SEAFO reported current cooperation with the Benguela Current Commission, CCAMLR, ICCAT, NAFO and NEAFC, and noted the wide range of organizations and stakeholders that attended SEAFO meetings. SPRFMO reported that its Convention required cooperation as appropriate with, inter alia, other regional fisheries management organizations. The Commission was required to take account of conservation and management measures or recommendations adopted by other regional fisheries management organizations, and to ensure that its own decisions

[133] CCSBT, ICCAT, IOTC, WCPFC. The ICCAT Executive Secretary currently chairs the meetings of the secretariats.

[134] ICCAT, NAFO, North Atlantic Marine Mammal Commission, NASCO, NEAFC, SEAFO.

were compatible with, and supportive of, such conservation and management measures or recommendations that were consistent with the SPRFMO Convention. FFA reported that it worked closely with the secretariat of WCPFC and supported FFA members participating in the development of SPRFMO.

232. Regional fisheries management organizations also cooperated in joint monitoring or the provision of updated advice on the status of stocks. CCSBT provided updated stock status advice for southern bluefin tuna to CCAMLR, ICCAT, IOTC and WCPFC on an annual basis, and GFCM reported on cooperation with ICCAT in the joint monitoring of tuna and tuna-like species, data exchange and monitoring, control and surveillance.

233. *Participation in regional fisheries management organizations and arrangements*. Several regional fisheries management organizations reported on mechanisms to allocate participatory rights to members and cooperating non-members, including details on relevant criteria. CCSBT reported that participatory rights were allocated to all members and cooperating non-members in the form of a national allocation of the global total allowable catch based on five specific criteria required by its Convention, together with any other factors it deemed appropriate. A formal procedure for determining the size of allocations had not been adopted, and decisions were made by negotiation, taking into account past allocations or catches in the case of new entrants. ICCAT adopted criteria for the allocation of fishing possibilities in 2001, which entitled contracting or cooperating non-contracting parties, entities or fishing entities to receive possible quota allocations. IOTC reported that it had not developed specific criteria for the allocation of fishing opportunities. In 2003, NEAFC adopted guidelines on allocations, which provided that fishing opportunities would not be allocated to new members on stocks already regulated by NEAFC.

234. SEAFO indicated that the Commission was required to take into account criteria listed in its Convention in determining the nature and extent of participatory rights in fishing opportunities. The SPRFMO Convention provided criteria for participation in fishery resources, taking into account the status of the fishery resource and the existing level of fishing effort, and specified criteria to the extent relevant. The WCPFC Convention provided guidance on the development of criteria for the allocation of the total allowable catch and the total level of fishing effort, but such totals had not yet been set or allocated.[135] In addition, WCPFC procedures for applying for cooperating non-member status provided that, where necessary, the Commission would determine how the participatory rights of cooperating non-members would be limited by the conservation and management measures in effect.

235. Regional fisheries management organizations also reported on measures related to non-members, including measures to formalize the status of cooperating non-members. CCSBT reported on a resolution to establish the formal status of cooperating non-member in order to promote participation and application of its conservation and management measures by non-members. IOTC adopted a resolution to establish a status of cooperating non-contracting party to accommodate non-members who wish to participate in the management process but are not in a

[135] However, the subregional group of eight parties to the Nauru Agreement has implemented a mechanism for allocating the majority of WCPO purse seine effort among their collective exclusive economic zones.

position to fully commit themselves as members. NEAFC noted that the status of a cooperating non-contracting party was based on the activity for which cooperation was sought (fishing, trans-shipment or scientific research), or alternatively, whether it sought general cooperation and support.

236. WCPFC adopted a measure in 2008 that prescribed a process by which non-members with an interest in the fishery could seek to participate as cooperating non-members, allowing several of them that had previously fished in the WCPFC Convention area to attain that status. FFA noted that its members had actively participated in the revision of the WCPFC measure for cooperating non-members, which provides more clarity on the eligibility of non-members to become cooperating non-members and the conditions to be satisfied for the granting of participatory fishing rights.

237. Regional fisheries management organizations also reported on specific measures to encourage membership or cooperation by non-members. CCAMLR has various policies and measures in place to promote compliance and has a clear policy to enhance cooperation between members and non-members. CCSBT actively encouraged non-members to join the organization and had market incentives in place to encourage flag States that currently take 99.9 per cent of the known global catch of southern bluefin tuna to become members or cooperating non-members. ICCAT reported on a recommendation that required its Executive Secretary to contact all non-members known to be fishing in the Convention area for species under its competence and urge them to become a Contracting Party, or to attain the status of a cooperating non-Contracting Party, entity or fishing entity.

238. IOTC established contacts with non-members fishing in the Convention area to encourage them to participate in the Commission, and noted that most of the fishing nations had joined as full members or as cooperating non-contracting parties. SEAFO referred to provisions in its Convention that provide mechanisms for cooperation with non-members and indicated that fishing entities would enjoy benefits from participation in the fishery commensurate with their commitment to comply with relevant conservation and management measures. The SPRFMO Convention also required measures such as exchange of information, deterrence and encouragement for non-contracting parties to become parties.

239. WCPFC adopted a measure in 2004 that required members to take necessary measures to ensure that fishing was only conducted by vessels flying the flag of a member of the Commission. Some coastal States that are members have provided licences for non-members' fishing vessels to fish in their exclusive economic zones, with the proviso that fishing would not be undertaken on the high seas.

240. *Decision-making rules and procedures*. A number of regional fisheries management organizations reported on decision-making rules and processes to constrain the post-opt-out behaviour of members. CCSBT emphasized that it did not have provisions that allowed for opting out of decisions. ICCAT indicated that no procedures existed to control post-opt-out behaviour, however, members have voluntarily included alternative measures in some cases where objections had been lodged and confirmed. IOTC reported that post-opt-out behaviour was not addressed in its dispute settlement procedures. However, opting out of the Commission could lead to loss of access to the IOTC Convention area for the party concerned. Amendments to the NAFO Convention in 2008 required members to specify their reason when objecting to decisions. The SPRFMO Convention provides a

mechanism for the implementation of decisions that allow for objections on narrowly stated grounds and the specification of alternative measures equivalent to the decision to which objection has been made. The objective is to avoid a situation where a party might indefinitely refuse to apply a decision of the Commission and thereby undermine conservation and management measures.

241. WCPFC reported that its decision-making provisions did not include the option to object to or opt out of decisions. In that regard, FFA noted however that "opt-out" clauses in various conservation and management measures adopted by WCPFC were inevitable owing to the desirability of decision-making by consensus. It further noted that, while exemptions pursued by major fishing States in the Pacific Islands region could potentially undermine conservation efforts, such measures would not be effective without the support of those fishing States.

242. All responding regional fisheries management organizations also supported efforts to improve transparency by, inter alia, allowing intergovernmental organizations and non-governmental organizations to attend meetings. CCSBT reported that the timeline for observers to apply to attend its meetings had been cut in half. A recent recommendation had also granted increased participation for non-governmental organizations in ICCAT. IOTC reported that no organization had been refused the right to participate in a meeting. Intergovernmental and non-governmental organizations were also present at the negotiations of the SPRFMO Convention. Most regional fisheries management organizations also noted that meeting documents were posted on their websites, except those deemed to be confidential.

243. *Exercise of effective control by flag States*. Some regional fisheries management organizations reported on measures they had taken to implement the flag State duty to exercise effective control over fishing vessels; however, no organization reported addressing this issue in the context of the "genuine link", as recommended by the Review Conference. ICCAT required parties to ensure that they did not authorize vessels to fish in the ICCAT Convention area unless they were able to effectively exercise their responsibilities in respect of such vessels, including monitoring and controlling their fishing activities. In reviewing the NEAFC Scheme of Control and Enforcement, the NEAFC performance review panel noted that all Contracting Parties had adopted the same rules in their national fisheries laws for fishing vessels flying their flag while fishing in the NEAFC Regulatory Area. SEAFO reported on extensive requirements in its Convention relating to flag State duties.

244. *Fisheries of developing States*. Several regional fisheries management organizations reported on measures taken to enhance the ability of developing States to develop their fisheries, consistent with article 25 of the Agreement (see also paras. 431-436 below). ICCAT reported that assistance to developing States was contemplated in its criteria for the allocation of fishing possibilities, and noted that several funds had been established to assist with capacity-building, particularly in relation to data collection. NEAFC also referred to its guidelines on the expectation of States considering applying for membership in NEAFC and possible fishing opportunities in the NEAFC Regulatory Area. The NEAFC Contracting Parties have also supported developing States on an individual basis, and the NEAFC secretariat has supported the SEAFO secretariat, including by hosting its vessel monitoring system database. In addition, NEAFC had an interest in a European Union project

aimed at developing scientific expertise in areas where the EU was a party concerned.

245. SEAFO noted extensive provisions in its Convention on the recognition of special requirements of developing States in relation to the conservation and management and development of fishery resources. The SPRFMO Convention required its Commission to give full recognition to the special requirements of developing States and required parties to facilitate their access to fisheries. In taking decisions on allocations, the Commission was required to consider particular criteria that reflected the interests of developing States.

246. FFA has taken concrete steps to enhance the participation of its developing State members in fishing activity in the region, including providing for the protection of domestic development aspirations in WCPFC measures; protecting participation of developing States in the SPRFMO Convention; providing technical advice to members; and accommodating development plans in national management and development plans. A recently endorsed regional tuna strategy was explicit in its support of domestic development and identified key strategies for fisheries development at the national level, including tying access more tightly to participation in domestic development.

3. Overview of performance reviews conducted in regional fisheries management organizations

247. The issue of performance reviews has gathered momentum in recent years and has been addressed in several international forums, including the FAO Committee on Fisheries, the General Assembly,[136] the Regional Fishery Bodies Secretariats Network and the joint meetings of tuna organizations.[137] The Review Conference recommended that regional fisheries management organizations undergo performance reviews on an urgent basis, that some element of independent evaluation be included in such reviews, and that the results be made publicly available. It further recommended that the reviews use transparent criteria based on the Agreement and other relevant instruments, including best practices of regional fisheries management organizations.[138]

248. Five regional fisheries management organizations have held performance reviews since 2006, and another six plan to undertake such reviews.[139] Performance reviews have been completed by CCAMLR (2008),[140] CCSBT (2008),[141] ICCAT (2008),[142] IOTC (2008/09)[143] and NEAFC (2006).[144] Each organization established different procedures for its review panel, but all reviews generally included some form of external input. Reviews have been planned for 2010 by GFCM, NAFO,

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[136] Since 2005, in its resolutions on sustainable fisheries, the Assembly has encouraged States to see that regional fisheries management organizations undergo performance reviews.

[137] The second joint meeting of tuna regional fisheries management organizations urged those organizations that had carried out or were undertaking performance reviews to consider implementation, as appropriate, of the recommendations of those reviews.

[138] A/CONF.210/2006/15, annex, para. 32 (j).

[139] NASCO indicated that it had undertaken a performance review in 2004/05.

[140] www.ccamlr.org/pu/E/e-Prfrm%20Review%20Report%20Jun09.pdf.

[141] www.ccsbt.org/docs/pdf/meeting_reports/ccsbt_15/report_of_PRWG.pdf.

[142] www.iccat.int/Documents/Other/PERFORM_%20REV_TRI_LINGUAL.pdf.

[143] www.iotc.org/files/misc/performance%20review/IOTC-2009-PRP-R[E].pdf.

[144] www.neafc.org/news/docs/performance-review-final-edited.pdf.

NPAFC and SEAFO. IATTC and WCPFC were considering initiating performance reviews, but details have not been agreed.

249. Some States provided observations and assessments concerning the performance review process. Canada noted that the ICCAT performance review had led to the creation of a working group on the future of the organization, and ongoing improvements to its compliance committee. The European Community highlighted its efforts regarding the decision to conduct an independent performance review of GFCM, which should be undertaken in 2009/2010. New Zealand reported that CCSBT had taken steps to address weaknesses identified in its 2008 performance review, and it was developing a strategic plan to assist with the process. Changes to its rules of procedure had made it easier for non-governmental organizations to participate in CCSBT annual meetings. On Norway's initiative, NEAFC had undertaken a performance review in 2006 on the basis of transparent criteria inspired by the Review Conference. That review had been used as a template in developing criteria for performance reviews of tuna regional fisheries management organizations. The United States had led discussions on how to advance performance reviews in the tuna regional fisheries management organizations using a common set of criteria and a common methodology which had been circulated to those organizations, as well as other regional fisheries management organizations, for their information and consideration in conducting performance reviews.

250. Other States expressed concerns regarding the performance review process. Guatemala emphasized that recommendations from the Kobe process had to be adopted by each regional fisheries management organization in accordance with its decision-making procedures, and noted that it did not recognize any organization above regional fisheries management organizations, which were established through treaties and to which members agree to be bound in accordance with international law. Indonesia supported the review of performance internally, but not by external partners.

251. International attention has now turned to the outcomes of the reviews, including identifying common constraints or weaknesses and possible means of strengthening regional fisheries management organizations and arrangements. CCSBT reported that it had taken a positive approach to the recommendations of the performance review and had already implemented changes or commenced the process to implement changes in relation to a large proportion of the recommendations. IOTC indicated that its 2008 performance review had come to the conclusion that a revision of the 1993 IOTC Agreement was necessary to incorporate modern fisheries management approaches developed in international instruments. NEAFC indicated that the review panel had produced a comprehensive review providing NEAFC with a basis to improve its fisheries management in the north-east Atlantic. NEAFC had addressed most of the major concerns identified by the review panel, including the adoption of conservation and management measures for all major fisheries, the adoption of new port State control measures, the creation of a pan-North Atlantic list of illegal, unreported and unregulated fishing vessels, and the closure of areas to protect vulnerable marine ecosytems.

252. The second joint meeting of tuna regional fisheries management organizations expressed concern that the independent performance reviews had identified fundamental shortcomings that needed to be addressed without delay, such as failure to adopt measures that reflect scientific advice, lack of complete and accurate data

collection and untimely provision of data, non-compliance, lack of participation by important players and the need for institutional and legal reform. It was noted that many of the shortcomings should be addressed individually by the concerned organizations, but also by recommendations on harmonization and coordination of measures of the tuna regional fisheries management organizations within the framework of the Kobe process, and that such work could greatly enhance the functioning of those organizations. The meeting emphasized, in particular, the need for compatible and best-practice standards on a range of issues, including trans-shipment monitoring and control, vessel monitoring systems, observer requirements, by-catch mitigation measures, catch documentation and positive and negative non-discriminatory negative market measures, as well as scientific data collection and reporting.[145]

253. At its twenty-eighth session, in 2009, the FAO Committee on Fisheries urged organizations that had already undertaken performance reviews to implement the recommendations, if they had not done so already, so as to strengthen regional governance, modernize mandates and adopt improved approaches to management.

(a) Areas of management subject to performance reviews

254. Areas of management subject to performance reviews were established by NEAFC, the first regional fisheries management organization to carry out a review, and subsequently by the 2007 joint meeting of tuna regional fisheries management organizations.[146] The criteria and terms of reference were complementary and included fisheries management as well as the management of relevant institutional processes through rules and procedures. Consequently, and after discussion in other forums, including the sixth round of informal consultations of States Parties to the Agreement, all regional fisheries management organizations have generally based their performance reviews on the following criteria: (a) conservation and management (status of living marine resources; quality and provision of scientific advice; data collection and sharing; adoption of conservation and management measures, including measures adopted at the coastal State level; compatibility of conservation and management measures; fishing allocations); (b) monitoring, control and enforcement (flag State duties; monitoring, surveillance and control activities; port State measures; follow-up on infringements; cooperative mechanisms to detect and deter non-compliance; market-related measures); (c) decision-making and dispute settlement procedures (decision-making; dispute settlement); and (d) international cooperation (transparency; relationship to cooperating non-members; relationship to non-cooperating non-members).[147]

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[145] Report of the second joint meeting of tuna regional fisheries management organizations, San Sebastian, Spain, 29 June-3 July 2009.

[146] Report of the joint meeting of tuna regional fisheries management organizations, Kobe, Japan, 22-26 January 2007, appendix 14.

[147] Some regional fisheries management organizations have also examined financial and administrative processes.

(b) Primary recommendations of the performance reviews

(i) Commission for the Conservation of Antarctic Marine Living Resources[148]

255. The review panel found that the stock status and trends for the current target species and the retained by-catch species in both established and developing fisheries were broadly consistent with article II of the CCAMLR Convention and international best practice. Issues concerning illegal, unreported and unregulated fishing and the adequacy of information for managing both established and developing fisheries required further and ongoing attention. The status of many by-catch species was unknown or poorly known, the broader ecosystem monitoring of biodiversity and dependent predators was not well connected to management decision-making, and the present monitoring and management approaches would require further development to anticipate the effects of increased fishing pressure and climate change. Particular attention needed to be directed to the adequacy of monitoring and management of the krill fishery to ensure its expected development consistent with article II, both in relation to the target species and dependent and related species.

256. CCAMLR had been a world leader in developing and implementing the ecosystem approach to fisheries and the precautionary approach; however, challenges remained in the effective control of fishing and fishing capacity, establishing compatible conservation and management measures throughout the Convention area and, as necessary, outside the Convention area, and developing monitoring and/or precautionary management responses before undesirable effects occurred. An overall strategy for protection of biodiversity and the recovery of depleted species needed to be developed. There was also a need to identify the fishing capacity required to harvest the resources sustainably, and to develop management measures to prevent or eliminate excess capacity.

257. Overall, the review panel considered that the compliance and enforcement arrangements developed and implemented by CCAMLR had been relatively effective. In order to improve current arrangements and ensure continued best practice, enhancements to existing monitoring, control and surveillance measures were recommended. It was also recommended that the monitoring, control and surveillance provisions could be improved by enhancing the transparency of inspections, infringements, sanctions and domestic legislation. The review panel recommended that CCAMLR develop a more comprehensive approach to port inspections by defining "fishing vessels" to include reefer and fishing support vessels and widening the obligation of inspection to any fishing vessel suspected of carrying or fishing for toothfish.

258. The review panel considered that there was an urgent need to ensure the seamless and timely updating of illegal, unreported and unregulated fishing vessel lists and the widest possible circulation of such information. Given the significant workload and increasing challenges facing the CCAMLR Standing Committee on Implementation and Compliance, the review panel recommended that the terms of reference, the modus operandi and resources available should be reviewed.

[148] Specific recommendations regarding the role of CCAMLR within the Antarctic Treaty System are not included owing to their unique application to CCAMLR.

259. Regarding decision-making, consensus procedures had worked well, but there might have been associated costs. It was suggested that, while decisions possessing normative and regulatory effects must continue to be addressed on the basis of consensus, a different procedure, such as majority rule or submission to an independent subsidiary organ, could govern how such decisions were implemented. CCAMLR dispute settlement mechanisms appeared to be unsatisfactory, and there was a pressing need to take substantive action and consider implementing the binding procedures for dispute settlement in Part XV of the United Nations Convention on the Law of the Sea.

260. The review panel found that CCAMLR had taken a commendably proactive approach to engaging with non-contracting parties, as demonstrated by its policy of enhancing cooperation with them and efforts to ensure their participation in the catch documentation scheme, which were to be encouraged. It also noted that CCAMLR had shown determination and innovation in its efforts to achieve greater regulation of the vessels of non-contracting parties; however, further actions should be examined.

261. A sizeable number of observers were routinely invited to attend meetings, but managing the participation of observers remained a challenge, and opportunities to improve that engagement needed to be explored, including by reviewing rules of procedure concerning observers. Considerable efforts had been made to ensure that CCAMLR material was made publicly available in a timely fashion, but greater attention had to be given to ensuring that meeting reports were delivered in a more synthesized fashion.

262. Although in ecosystem terms CCAMLR was largely self-sufficient, regular and constructive dialogue with other bodies outside the Convention area, including regional fisheries management organizations and intergovernmental organizations, could add value. Through its secretariat and member States individually, CCAMLR had put commendable effort into engaging with developing States, including by providing training. However, CCAMLR had few provisions in place to support developing States in areas addressed by article 5 of the FAO Code of Conduct on Responsible Fisheries, and consideration of new means for providing support to developing States was encouraged.

(ii) Commission for the Conservation of Southern Bluefin Tuna

263. The performance review highlighted areas of good performance in CCSBT, such as the participation in the Commission, as members or cooperating non-members, of all those fishing for southern bluefin tuna; recent improvements in transparency; and the undertaking of its first performance review. In the discussion of areas of poor performance it was noted that estimates of the depletion of the spawning stock biomass suggested that CCSBT had not been successful in managing southern bluefin tuna.

264. Among the key recommendations on the status of living resources, the review panel highlighted the need to determine management objectives and rebuild strategy consistent with the Agreement's requirements to guide future scientific assessments, and to develop and implement a strategy to address the impacts of southern bluefin tuna fisheries, including the collection and sharing of data between members of CCSBT and the secretariats of other regional fisheries management organizations. It noted that efforts to improve data collection and reporting needed to focus on the

full and urgent implementation of the conservation and management measures adopted by the Commission in 2006.

265. In addition, the review panel noted that the trade information scheme was probably of limited value since it did not incorporate all catches and catch reports could not be independently verified. Urgent implementation of a full catch documentation scheme was thus recommended.

266. In respect of scientific advice, the review panel recommended that scientific effort should achieve a better balance between southern bluefin tuna and ecologically related species. CCSBT should continue to make conservation and management measures consistent with scientific advice, but it should develop a strategic plan for the adoption of conservation and management measures and a management plan to implement minimum standards for the fishery. In general, current arrangements were satisfactory for the compatibility of management measures and for fishing allocations and opportunities, and no action was recommended in terms of capacity management, except in relation to the capacity for temporal and spatial closures in the southern bluefin tuna spawning ground.

267. Addressing monitoring, control and surveillance issues, the review panel considered that all members and cooperating non-members should continue to take all necessary actions to ensure compliance with conservation and management measures. CCSBT was also encouraged to cooperate with other tuna regional fisheries management organizations, including by optimizing harmonization, and to prioritize the development of monitoring, control and surveillance in a compliance plan. In order to respond to infringements, CCSBT should establish agreed rules on the treatment of overcatch and a range of penalties in relation to all conservation measures. In addition, members and non-members should be encouraged to submit their national reports to CCSBT in order to detect and deter non-compliance.

268. Regarding port State measures, the review panel recommended the ongoing FAO technical consultation as a source of guidance on a preferred model. In terms of market-related measures, it was recommended that a catch document scheme be implemented as a matter of urgency and that CCSBT monitor all market and port States and encourage compliance with its monitoring and trade measures.

269. In its review of the CCSBT decision-making procedures, the review panel concluded that, since consensus decision-making meant that some decisions were delayed, the Commission could consider devolving some day-to-day operational decision-making to the Chair or the Executive Secretary, by unanimous decision of the Commission.

270. In order to enhance international cooperation, the review panel suggested that openness should be improved by better publication of the rules for observers. In addition, there were significant opportunities for the CCSBT to work more closely with and harmonize measures with other regional fisheries management organizations, especially tuna-related ones, which should be a priority area.

271. Additional recommendations from the independent expert of the performance review included the need to consider amending or renegotiating the CCSBT Convention, or incorporating modern standards for fisheries management into the work of the Commission; developing the most accurate stock assessment possible in the light of underreported past catches; and setting a global total allowable catch for southern bluefin tuna that would allow the stock to rebuild on the basis of a

precautionary approach; implementing the recommendations of the FAO International Plan of Action on the Management of Fishing Capacity; moving promptly to reduce the impacts of southern bluefin tuna fisheries on ecologically related species; and adopting and implementing measures to minimize pollution, waste, discards or catch by lost and abandoned gear. In terms of compliance and enforcement, the independent expert recommended the adoption of a broader set of port State measures to prevent the landing and trans-shipment of illegal, unreported and unregulated catches, and the adoption of an integrated vessel monitoring system. Modernizing the rules and procedures on the admission of observers was also recommended.

(iii) International Commission for the Conservation of Atlantic Tunas

272. The review panel indicated that ICCAT had developed reasonably sound conservation and fisheries management practices which, if fully implemented and complied with, would have been effective in managing the relevant fisheries. Fundamentally, however, ICCAT had not met its objectives for several of the species under its purview, owing in large part to the lack of compliance by many of its members. Contracting Parties, cooperating non-contracting parties, entities and fishing entities had consistently failed to provide timely and accurate data and to implement monitoring, control and surveillance arrangements. A number of key fish stocks were well below maximum sustainable yield. Concerns were also expressed over transparency, both in terms of decision-making and resource allocation.

273. The review panel indicated that most of the problems and challenges in ICCAT could be resolved with greater political will to fully implement and adhere to ICCAT rules and recommendations. Sound approaches to fisheries management had generally been adopted in basic texts and recommendations, but had been undermined by systemic failures by members in implementing such rules and recommendations. The review panel also expressed strong reservations on the performance of the Commission's Compliance Committee, and noted that its Standing Committee on Research and Statistics had provided sound advice while operating under significant difficulties due to failures in the provision of timely and accurate data.

274. It was generally observed that the ICCAT Convention should be reviewed, modernized or otherwise supplemented in the light of modern global instruments and current best practice in regional fisheries management organizations, including in regard to the ecosystem and precautionary approaches, fishing allocations and opportunities, flag State and port State duties, compatibility of measures and dispute settlement procedures.

275. The review panel found that lack of data and lack of accuracy of reported data introduced large uncertainties in some stock assessments. It was recommended that a precautionary approach be applied to the management of fisheries on fish stocks where data were poor or lacking. The panel found that ICCAT management objectives had been met in only four of the 14 stocks examined.

276. In terms of actual implementation of adopted resolutions and recommendations, the review panel found that management of fisheries of bluefin tuna in the eastern Atlantic and the Mediterranean and the regulation of bluefin farming was unacceptable and not consistent with ICCAT objectives. It recommended the suspension of fishing on bluefin tuna in the eastern Atlantic and

the Mediterranean until members fully complied with ICCAT recommendations. Management of fisheries on swordfish, bigeye tuna and yellowfin tuna were largely consistent with the management objectives, but concern was expressed over current catches for albacore tuna in the North Atlantic, and it was considered that the total allowable catch should be adjusted so that fishing mortality was at or below maximum sustainable yield. In addition, target reference points should be agreed for all species to ensure that the Commission's objective had a high probability of being met, consistent with the Agreement and the precautionary approach.

277. The review panel strongly recommended that ICCAT immediately discontinue the practice of allowing uncaught allocations in all fisheries to be carried forward and that fishing capacity be immediately adjusted to reflect fishing opportunities or quota allocations for all fisheries. It believed that ICCAT should develop binding allocation criteria that were applied in a fair and transparent manner, and consider allowing the purchase and transferability of quotas from existing to new members as a method to encourage compliance and the entry of new members. The review panel also recommended that the importance of the recreational and sport fishing sector be taken seriously and that efforts be made to include that sector in future ICCAT deliberations regarding fisheries management.

278. Regarding monitoring, control and surveillance, the review panel recommended that ICCAT members immediately apply fully the rules and measures adopted by the Commission and provide effective control over their nationals through domestic arrangements, including flag and port State controls, observer programmes and vessel monitoring systems. It strongly believed that misreporting must stop immediately, specified data be collected and reported in a timely manner and efforts be continued to build capacity in and improve reporting by developing members and cooperating non-members. ICCAT should also investigate and develop a severe penalty regime that would enable it either to suspend member countries that systematically broke its regulations or apply significant financial penalties for breaches.

279. The review panel recommended that the Commission review its decision-making procedure with a view to creating mechanisms for minimizing objections and reviewing objections through an expert body, taking into account recent trends in other regional fisheries management organizations. It also recommended the establishment of dispute settlement procedures, including the possible use of an expert panel and compulsory proceedings entailing binding decisions. The review panel further recommended that a discussion paper be prepared on transparency, fairness and equity within ICCAT and that the Commission's policy on non-governmental organizations' attendance at meetings be reviewed.

(iv) Indian Ocean Tuna Commission

280. The review panel concluded that the IOTC Agreement was outdated, as it did not take account of modern principles for fisheries management, in particular the precautionary approach and an ecosystem-based approach to fisheries management. In addition, the lack of clear delineation of the functions of the IOTC Commission or of flag State and port State obligations were significant impediments to the effective and efficient functioning of the IOTC Commission. The review panel also noted limitations on participation in the work of the IOTC Commission. It was recommended that the IOTC Agreement either be amended or replaced by a new

instrument, taking into account the full range of deficiencies identified in the performance review.

281. The review panel also highlighted numerous weaknesses in the workings of the IOTC Commission in terms of data collection and sharing and the quality and provision of scientific advice, which contributed to high levels of uncertainty concerning the status of many stocks under its mandate. The review panel concluded that addressing uncertainty in data and in the stock assessments was one of the most fundamental and urgent actions required to improve the performance of the IOTC Commission.

282. Among the key recommendations on the adoption of conservation and management measures, the review panel suggested exploring management approaches other than effort control, imposing a deadline for fleet development plans and implementing the precautionary approach in accordance with the Agreement, pending the amendment or replacement of the IOTC Agreement. Recommendations were also made on capacity management, prompt implementation of conservation and management measures by members and use of an allocation system of fishing quota, as well as in regard to decision-making, including the use of the voting procedure, amendment of the objection procedure to make it more rigorous and adoption of a provision on dispute settlement in line with the Agreement.

283. In terms of compliance, the review panel found that low levels of compliance with measures and obligations were commonplace and limited actions had been taken to remedy the situation. There were no sanctions or penalties in place for non-compliance, and the list of illegal, unreported and unregulated fishing vessels only applied to non-members. The review panel concluded that strengthening the ability of the IOTC Compliance Committee to monitor non-compliance and advise the IOTC Commission on actions that might be taken in response to non-compliance was imperative. Specific recommendations were made on the development of a comprehensive monitoring, control and surveillance system, a structured, integrated approach to evaluate the compliance of each member with the conservation and management measures in force, greater accountability, transformation of non-binding market measures into binding measures and expanding the scope of the current statistical document programme.

284. It was recommended that international cooperation could be enhanced through measures relating to transparency by making the active vessels list available on the IOTC website. Means for improving the relationship with non-members were also identified, and it was recommended that cooperation with other regional fisheries management organizations be enhanced by establishing mechanisms for mutual recognition of illegal, unreported and unregulated fishing vessel lists and memorandums of understanding for working in a coordinated manner on issues of common interest.

285. In view of the serious problems of capacity, infrastructure and budgetary constraints and the lack of appropriate scientific expertise of many developing States, which impeded their ability to comply with their obligations and limited their participation in IOTC meetings, the review panel recommended that the IOTC Commission provide increased financial support for capacity-building to developing States by enhancing already existing funding mechanisms to build the capacity for data collection, processing and reporting, as well as technical and scientific

capabilities. The possibility of establishing a special fund to facilitate participation in the work of the IOTC Commission should be considered, and strengthening the role and ability of the secretariat to undertake targeted capacity-building should be explored.

(v) North East Atlantic Fisheries Commission

286. The review panel considered that the NEAFC Convention and measures adopted by NEAFC generally implemented global instruments dealing with fisheries issues, in particular the Agreement, the FAO Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas and the FAO Code of Conduct on Responsible Fisheries. Concerns were expressed over the accuracy of data reporting due to issues such as area misreporting and discarding, and the review panel considered that better coordination of all data into one database was desirable. A critical issue to address was the situation for deep-sea species in relation to knowledge of the species, nature of the fisheries, status of the resources and management planning.

287. Sustainable management of pelagic redfish was a high priority, and improvements were needed in addressing the stock structure issue in a precautionary manner, even in the face of scientific uncertainty and lack of consensus. The review recommended that NEAFC continue to play a critical role in ensuring that new exploratory or expanding fisheries develop in accordance with the precautionary approach, but it should determine its specific objectives and develop a comprehensive strategy of protection.

288. It was noted that management plans were in place in compliance with the precautionary approach for the pelagic stocks, but the inability of coastal States to reach allocation agreements severely hampered the potential effectiveness of NEAFC to manage stocks within its Regulatory Area and needed to be addressed, in addition to lack of transparency in the development of coastal State agreements.

289. The review panel noted that NEAFC was beginning to address the issue of ghost fishing from lost nets in deep-sea areas and more environmental and ecological issues through its application of closed areas, moratoriums on shark fishing, the ban on the use of gill-nets in depths beyond 200 metres and the development of procedures for closing new areas. It was recommended that NEAFC develop a comprehensive strategy of protection in that regard, including objectives, approaches and measures of success.

290. Regarding control mechanisms, NEAFC had developed a sophisticated system that made use of modern technologies, although more attention could be paid to quality control, including cross-checking of reports and more effective use of inspection resources and the NEAFC database. The means available to NEAFC in that regard were not utilized in full, and not all Contracting Parties contributed to inspection and surveillance in a manner befitting their fishing presence. Illegal, unreported and unregulated fishing activities in the NEAFC Regulatory Area had become a serious challenge, but NEAFC had moved swiftly and decisively to adopt a number of measures to address the problem, including illegal, unreported and unregulated fishing vessel lists, prohibition of landings, closure to ports and other port State control provisions, and some measures exceeded the standards in FAO instruments.

291. The review panel welcomed the development of dispute settlement mechanisms as an important element in the modernization of the NEAFC Convention, which could facilitate the resolution of pending issues. Progress had been made to improve the transparency of information flow and decision-making processes within NEAFC, although improvement was needed regarding the ICES scientific review process and negotiations between participating coastal States on quota allocations and management measures for specific Convention area fisheries.

292. The review panel indicated that article 5 of the NEAFC Convention has implemented the requirements under article 7 of the Agreement. To promote the compatibility of measures, it strongly encouraged the establishment of a mechanism for the transmission of national measures and decisions to the NEAFC Commission. The review panel also recommended that NEAFC members ensure that the use of the objection procedure does not undermine conservation of the resources and was supported by the dispute settlement mechanism. Furthermore, interim measures should be agreed upon and implemented while disputes were being resolved.

293. Regarding international cooperation, the review panel acknowledged the high level of engagement of the NEAFC secretariat with other regional fisheries management organizations and international organizations, but noted the need for improvement in the relationship and future links between NEAFC and the Commission of the Convention for the Protection of the Marine Environment of the North East Atlantic (OSPAR Commission). The review panel also noted the transparent and appropriate rules for granting cooperating non-contracting party status, but suggested that further obligations may be put on such States. It also acknowledged the progress being made in addressing fishing activities by non-contracting and non-cooperating parties.

294. In conclusion, the review panel found that, given its constraints, NEAFC had taken many positive initiatives, and in some areas, such as vessel monitoring, was a leader in implementing the management arrangements in which it had authority. It was suggested that NEAFC Contracting Parties develop a more transparent process in setting objectives for the management of the Commission's fisheries and consider ways to provide it with greater authority in that regard, as well as in the consequential processes of allocating and administering access rights and determining the tools and services needed for effective management. It was recommended that NEAFC develop an annual fisheries status report, encompassing biological factors for the fish stocks concerned, as well as social, environmental and economic performance. A more comprehensive and active information collection and analytical capacity would also be needed. Realigning management of NEAFC fisheries from an input-driven process to one founded on common and multi-year outcomes and aligned incentives could offer the best strategy for future progress.

4. Analysis of the extent to which the recommendations of the Review Conference have been implemented

295. Several States have been involved in efforts to strengthen the mandates and measures of regional fisheries management organizations, including through performance reviews and the implementation of best practices. The completion of performance reviews of five regional fisheries management organizations since the Review Conference in 2006, and plans for six additional performance reviews have highlighted global determination to move forward on this process. Performance

reviews conducted to date have included some element of independent evaluation, and the results have been made publicly available and have used transparent criteria, as recommended by the Review Conference. Many reviews have also referred to the use of best practice guidelines; however, the application of such guidelines, in general, has not been addressed.

296. The performance review process has identified cases of depleted stocks, as well as failures in meeting objectives for several species, lack of success in management and inadequate data availability or dependence on an external organization for such data. In general, provision of scientific advice was thought to be good across regional fisheries management organizations, but further efforts were needed to improve data collection and sharing. Assessment of adopted conservation and management measures yielded uneven results, ranging from the adoption of a wide range of measures, to relatively few measures. Compatibility of management measures and fishing allocations were generally not prominent issues in the performance reviews for different reasons, relating to the mandate and processes of each organization.

297. Regarding monitoring, control and surveillance, assessment of flag State performance varied, with one review noting that members largely fulfilled their duties as flag States, while others underscored the need for effective performance, including sanctions of adequate severity, transparency among members in relation to national laws and the inclusion of flag State obligations in the relevant constitutive instrument. The general effectiveness of monitoring, control and surveillance measures of some regional fisheries management organizations was noted by the review panels, and enhancements to existing measures were recommended in all cases, including increased transparency in relation to inspections, infringements, sanctions and domestic legislation; adoption of sanctions sufficient to secure compliance; review of domestic legislation; adoption of a comprehensive monitoring, control and surveillance system; quality control, including cross-checking of reports; follow-up on infringements; and emphasis on flag State duties. All performance reviews attached high importance to the implementation of port State measures.

298. There was a need for improved decision-making generally across regional fisheries management organizations in various areas, including timeliness and outdated objection procedures, and dispute settlement procedures were generally unsatisfactory or unused. Most organizations had a good level of transparency for international cooperation, although further improvements were needed in some cases. Progress had generally been made in cooperation between regional fisheries management organizations and cooperating non-members and other non-members, and among regional fisheries management organizations.

299. Although the performance review process has contributed to the improved functioning of regional fisheries management organizations by identifying recommendations for strengthened governance, some States noted the need for further efforts to implement the recommendations within organizations. Since the reviews had been based on identical or similar criteria, identification and prioritization of further follow-up could be highly useful and assist in promoting a systematic approach to the implementation of the Agreement. To be effective, the relevant actions and measures needed to be supported and implemented by members

and cooperating non-members, and cooperation and compliance among States and regional fisheries management organizations needed to be strengthened.

300. As recommended by the Review Conference, there has been increased cooperation among existing and developing regional fisheries management organizations at many levels, including through the joint meetings of the tuna regional fisheries management organizations and cooperation among secretariats of some organizations on a species and geographical bases. The use of formal cooperation mechanisms such as memorandums of understanding has increased although, in general, the priorities and effectiveness of such cooperation has not been elaborated.

301. Several States reported on progress in developing mechanisms to encourage States to participate in regional fisheries management organizations and arrangements, including the development of transparent allocation criteria in regional fisheries management organizations to address participatory rights. However, further efforts were needed to agree on and apply such criteria. Except for the adoption of specific allocation criteria and guidelines by regional fisheries management organizations, there were no clear trends in this regard. The focus of efforts has been on members and cooperating non-members, and no reports were made of efforts to take into account the interests of all those with a "real interest" in the fishery.

302. Although some States reported on individual efforts to encourage the participation of non-members in regional fisheries management organizations and arrangements, there were no reports of a systematic approach to establishing mechanisms to promote such participation of non-members. Many regional fisheries management organizations reported on measures that had been in place for several years to encourage participation by non-members, with some notable successes. A range of different incentives and disincentives have been adopted, but responding regional fisheries management organizations and States generally did not report on the specific incentives recommended by the Review Conference, or on benefits that non-members would enjoy commensurate with their commitment to comply with conservation and management measures.

303. Most responding States and regional fisheries management organizations have taken action to improve the transparency of regional fisheries management organizations in terms of decision-making processes and the reasonable participation of intergovernmental and non-governmental organizations. In particular, restrictions on States from opting out of decisions, combined with dispute settlement and other mechanisms to prevent opting-out; have been adopted in the context of the renegotiation of constitutive instruments or the establishment of new regional fisheries management organizations. These developments have underscored the need for strengthened decision-making processes for more effective implementation of conservation and management measures.

304. Many States and regional fisheries management organizations have made efforts to improve effective control by flag States over vessels flying their flag, as opposed to an examination of the role of the "genuine link", which is not clearly defined. States have supported cooperation in the work of the FAO on flag State performance, and have reported national mechanisms to ensure effective control. Some regional fisheries management organizations have taken action to have this duty of flag States implemented in their convention areas, and the issue has been the

subject of the performance review process. While some progress has been made, further efforts are needed in support of relevant FAO activities, such as identifying criteria for flag State performance and actions to be taken when criteria have not been met.

305. Several States have taken measures to enhance the ability of developing States to develop their fisheries, using a range of traditional means such as financial contributions and technical assistance. A few regional fisheries management organizations have taken some steps to facilitate such assistance through the establishment of funds or other mechanisms. In some cases, the relevant constitutive instrument has also referred to such measures. There have been no specific cases reported of the provision of assistance through facilitating access to fisheries, consistent with article 25 of the Agreement, or on the outcomes or successes of applicable measures.

C. Monitoring, control and surveillance, and compliance and enforcement

306. The Review Conference recognized that effective compliance with and enforcement of agreed conservation and management measures, supported by effective monitoring, control and surveillance, was critical to achieving the long-term conservation and sustainable use of straddling fish stocks and highly migratory fish stocks. Since 2006, important initiatives have taken place to strengthen monitoring, control and surveillance at all levels, including adoption of the FAO Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing and cooperation to develop criteria for assessing the performance of flag States and examine possible actions against vessels flying the flags of States not meeting such criteria.

1. Measures taken by States

307. *Strengthening effective control over vessels, illegal, unreported and unregulated fishing and vessel monitoring systems.* Measures relating to monitoring, control and surveillance, compliance and enforcement at the national level have focused on strengthening effective control over vessels as well as nationals in areas beyond national jurisdiction. The aim has been to ensure that vessels comply with, and do not undermine, the conservation and management measures of regional fisheries management organizations and arrangements and that nationals refrain from engaging in illegal, unreported and unregulated fishing activities.

308. Most responding States referred to legislative mechanisms and other monitoring, control and surveillance tools, at national and regional levels, to strengthen effective control over vessels flying their flag and to deter nationals and beneficial owners from engaging in illegal, unreported and unregulated fishing activities.

309. Several respondents referred to national licensing requirements for fishing vessels operating on the high seas,[149] and all respondents required their vessels to comply with conservation and management measures of regional fisheries management organizations and arrangements. Canada had domestic licensing

[149] Canada, Japan, Mauritius, New Zealand, Norway, Panama, Peru, Sri Lanka, United States.

requirements for all high seas fishing in regulated or unregulated areas as well as activities within the national jurisdiction of another State. A European Community system was introduced for authorization of fishing activities of fishing vessels outside European Community waters and the access of third-country vessels to European Community waters, which described the responsibilities of the European Community member States concerning the procedure for the authorization of fishing activities.

310. Japan referred to the limited entry licensing system for its fishing vessels operating on the high seas, which required compliance with conservation and management measures of regional fisheries management organizations and arrangements. Mauritius required its flagged vessels to be licensed for fishing in areas within national jurisdiction and on the high seas; compliance with the measures adopted by regional fisheries management organizations and arrangements was a condition of the licence. Moreover, a condition of registration of a vessel was compliance with applicable measures adopted by regional fisheries management organizations and arrangements or another coastal State, including securing an appropriate fishing authorization or licence to fish in the area concerned. Mozambique was strengthening its licence conditions to ensure compliance with national laws.

311. In New Zealand, an applicant's record of compliance with conservation and management measures of regional fisheries management organizations and arrangements was integral to any decision to issue a high seas fishing permit. An additional permit was required to fish in areas for species covered by some regional fisheries management organizations of which New Zealand was a member. High seas fishing permits prohibited fishing in areas or for species covered by regional fisheries management organizations to which New Zealand was not a party, without specific approval. Norway's licensing system for high seas fishing incorporated all relevant obligations established by regional fisheries management organizations. Licences were granted on an annual basis and only if the vessel had fishing rights in a regional fisheries management organization of which Norway was a member. Peru's legislation for tuna, horse mackerel, chub mackerel and giant squid fisheries required shipowners operating vessels flying its flag to comply with applicable national and regional conservation and management measures.

312. Many respondents[150] reported on the use of a range of monitoring, control and surveillance tools, including requirements for a vessel monitoring system, in order to exercise control over vessels flying their flag and to deter illegal, unreported and unregulated fishing. The European Community adopted a number of regulations concerning fisheries data, electronic systems for recording and reporting of fisheries activities and data exchange among member States. In 2008, it established a specific control and inspection programme related to the recovery of bluefin tuna in the eastern Atlantic and the Mediterranean, which was renewed in 2009. The European Community proposed also to introduce a regulation that would establish a catch documentation programme for bluefin tuna, in order to improve the control of all the components involved in the bluefin tuna fisheries. In 2008, a European Community decision established a specific control and inspection programme related to certain cod stocks and implemented a general framework for mutual assistance and

[150] Canada, European Community, Japan, Kenya, Mauritius, Mozambique, New Zealand, Norway, Panama, Peru, Philippines, Sri Lanka, Thailand, United States, Venezuela (Bolivarian Republic of).

exchange of relevant information between all authorities involved in the monitoring, inspection and surveillance of the cod fishery. The European Community has also been instrumental in monitoring, control and surveillance in the GFCM Convention area.

313. Several States reported on the implementation of monitoring, control and surveillance measures adopted by regional fisheries management organizations, including through regional vessel monitoring systems (CCAMLR, SPRFMO, WCPFC) and observer schemes (WCPFC), boarding and inspection procedures (CCAMLR), negative vessel lists (CCAMLR, IATTC, ICCAT, NAFO, WCPFC), statistical documentation schemes (IATTC, ICCAT) and catch documentation schemes (CCAMLR, ICCAT).[151]

314. Some States also reported on their legal and regulatory frameworks for combating illegal, unreported and unregulated fishing. Canada has developed a national compliance framework, and Chile and Panama have adopted national plans of action. The European Community has adopted a regulation that came into effect from 1 January 2010 aimed at preventing and eliminating all trade of illegal, unreported and unregulated fishery products into the European Community, through the introduction of a catch certification scheme that would improve the traceability of all marine fishery products at all stages of the production chain.

315. New Zealand's nationals were prohibited from using a foreign flagged vessel to fish on the high seas unless in accordance with an authorization issued by certain States, and there were specific measures concerning fishing activities within areas, or for species, covered by regional fisheries management organizations and arrangements. Further, it was an offence to fish in an area within the national jurisdiction of another State if the laws of that State were not observed. Norway's legislation regarding marine living resources, adopted in 2008, contained provisions addressing illegal, unreported and unregulated fishing by nationals and beneficial owners.

316. The United States reported that the Lacey Act targeted illicit interstate or foreign commerce in illegally taken fish, and also covered activities onboard vessels flying the flag of the United States on the high seas and in areas within the national jurisdiction of other States. The United States had also adopted bilateral agreements prohibiting unauthorized fishing by its nationals and vessels in areas under the fisheries jurisdiction of other States.

317. Other States also reported that enforcement action was taken against nationals in connection with illegal, unreported and unregulated fishing, including through the imposition of penalties, fines and administrative punishment for violations of national or regional measures.[152] Japan stressed that it immediately investigated alleged violations of conservation and management measures of regional fisheries management organizations and arrangements by any Japanese fishing vessels, and the sanctions imposed for violations could include suspension from fishing and returning to the port and anchorage. Mauritius could cancel or suspend a vessel's registration if it was used in contravention of conservation and management measures of a regional fisheries management organization or arrangement or another

[151] Canada, Chile, New Zealand, Philippines, United States.

[152] Guatemala, Indonesia, Peru, Sri Lanka, Venezuela (Bolivarian Republic of).

State. New Zealand reported that the deterrent penalties for commercial fisheries were generally two to three times the anticipated benefit.

318. Most States reported that they required their flagged vessels fishing on the high seas to carry a vessel monitoring system, including through the implementation of measures adopted by regional fisheries management organizations or arrangements or on a regional basis,[153] or were in the process of implementing such a requirement.[154] Kenya indicated that it would adopt legislation to ensure that evidence from vessel monitoring systems was admissible in court proceedings. New Zealand and the United States reported on the regional vessel monitoring system programme operated by FFA in the Western and Central Pacific Ocean. The United States was implementing vessel monitoring system coverage nationally, which would require a vessel monitoring system on all vessels and consolidate all vessel monitoring system information into one database and promote near real-time transmission of this data to on-the-water assets. Vessel monitoring system coverage would be extended to approximately 8,000 vessels by 2009.

319. The United States also supported the continuation of the process in FAO to foster broader implementation of satellite-based vessel monitoring systems, and noted the 2006 FAO expert consultation on vessel monitoring systems,[155] as well as the updated FAO Technical Guidelines on vessel monitoring systems. It supported the work of FAO to develop additional guidance, including model legislation to facilitate the use of vessel monitoring systems.

320. *Assessing flag State performance*. The failure by some States to effectively control their vessels has received increasing attention from the international community. Several States expressed support for the work of FAO to develop criteria for assessing the performance of flag States as well as to examine possible actions against vessels flying the flags of States not meeting such criteria.[156]

321. Under Canada's port access policy, a list was maintained of the States with which Canada had favourable fisheries relations. To be listed, a State had to have fulfilled its flag State duties in controlling the activities of its fleet and ensuring compliance with relevant international conservation and management measures and fisheries treaty obligations. In January 2009, Chile informed FAO of the details of its fleet operating on the high seas, in accordance with the FAO Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas. Mauritius reported on its measures to ensure compliance by vessels flying its flag through a range of activities consistent with the FAO International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing. New Zealand noted that the European Community regulation on illegal, unreported and unregulated fishing placed responsibility for certifying the legitimacy of catch on the flag State.

322. With regard to multilaterally agreed trade measures to promote implementation of flag State obligations, Guatemala noted that it complied with IATTC and ICCAT

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[153] Canada, Chile, Indonesia, Japan, Kenya, Mauritius, New Zealand, Norway, United States.

[154] Guatemala, Mozambique, Sri Lanka, Venezuela (Bolivarian Republic of).

[155] FAO Fisheries Report No. 815, "Report of the Expert Consultation on the Use of Vessel Monitoring Systems and Satellites for Fisheries Monitoring, Control and Surveillance, Rome, 24-26 October 2006", available at ftp://ftp.fao.org/docrep/fao/009/a0959e/a0959e00.pdf.

[156] Canada, Chile, Japan, Mauritius, New Zealand, Norway, United States.

resolutions and recommendations to combat illegal, unreported and unregulated fishing. Mozambique expressed concern that trade measures should be implemented equitably and with assistance to developing countries that lacked the relevant capacity as flag States. Reference was also made to the European Community regulation on illegal, unreported and unregulated fishing. The Bolivarian Republic of Venezuela stated that it had accepted trade measures adopted by some regional fisheries management organizations.

323. Some States reported on initiatives or support to develop regional guidelines for fisheries sanctions to be applied by flag States to evaluate their systems of sanctions and to ensure effectiveness in securing compliance and deterring violations. Canada supported the adoption of such guidelines by NAFO in the context of the monitoring, control and surveillance reform process, but there was no agreement yet on such guidelines. Chile stated that the definition of "serious violation" by a vessel in the SPRFMO Convention incorporated, by reference, the definition in article 21, paragraph 11, of the Agreement, which might provide a basis for the future preparation of such guidelines. New Zealand worked through regional fisheries management organizations and regional fisheries bodies (CCSBT, FFA and WCPFC) to develop and implement strategies to deter vessel activities that undermined conservation and management measures. Mozambique reported that members of SADC were addressing the matter through the Protocol on Fisheries.

324. *Port State measures*. Port State measures are regarded as one of the most efficient and cost-effective means of combating illegal, unreported and unregulated fishing. There have been many significant developments concerning port State measures since 2006, when the focus of the international community was on initiating a process in FAO to develop a legally binding agreement on port State measures. Most responding States participated in and supported the FAO process to develop the FAO Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (see para. 399 below). Some States also reported on activities to develop new schemes at the regional level through relevant regional fisheries management organizations and arrangements (Canada, New Zealand and Norway).

325. States also reported on the development of national measures and other activities. Canada reported that, generally, its ports were closed to foreign fishing vessels, and access to Canadian waters and ports was a privilege. Chile had developed an equitable and transparent procedure for the control of landing or trans-shipment of catches by foreign-flagged fishing vessels in Chilean ports. Guatemala and Mauritius reported on their implementation of the FAO Model Scheme on Port State Measures to Combat Illegal Unreported and Unregulated Fishing. Guatemala complied with relevant measures adopted by IATTC concerning illegal, unreported and unregulated fishing. Japan reported that, except for landing of catch shipped from foreign countries, foreign fishing vessels were only allowed to call into ports when authorized. Any fishing vessel of a State that was not a member of a regional fisheries management organization of which Japan was a member, or any fishing vessel having onboard catch which had been taken in a manner that undermined the effectiveness of measures adopted by regional fisheries management organizations, would be denied a port call at any port in Japan.

326. Mozambique had approved its national plan of action on illegal, unreported and unregulated fishing, including a section on port State measures, and training

sessions had been held and implementation had occurred in the major designated ports. It had also supported regional cooperation, including the establishment of common criteria for fisheries inspectors and common training standards. New Zealand reported that its compliance and enforcement system included port State control for foreign-flagged vessels and cooperation with other States to investigate alleged offences. Sri Lanka reported that all port State measures stipulated by FAO had been taken to minimize illegal, unreported and unregulated fishing. Thailand stated that it was establishing a mechanism for port State measures. Uruguay reported that its recent monitoring, control and surveillance measures were mainly focused on foreign fleets operating in its ports, and included the development of a registry of such fishing vessels.

327. *Compliance and enforcement mechanisms in regional fisheries management organizations and arrangements*. The Review Conference recognized that adopting, strengthening and implementing compliance and enforcement schemes at the regional level was essential for improved monitoring, control and surveillance of high seas fisheries. States generally responded that the regional fisheries management organizations and arrangements in which they were members had such compliance and enforcement schemes. Through the joint meetings of the tuna regional fisheries management organizations, participating States were working to coordinate and strengthen compliance and enforcement and monitoring schemes.[157] At the second meeting, held in Spain in 2009, participants had concluded that it was necessary to develop common rules and procedures across regional fisheries management organizations for handling and disseminating data so there could be a free exchange of non-public domain data within each organization and potentially across organizations. New Zealand emphasized that the development of the FAO Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing would provide a more coordinated process to exchange information on illegal, unreported and unregulated fishing operations.

328. A number of respondents reported on their contributions to regional cooperation for compliance and enforcement. Canada was active in the development of significant changes to the NAFO conservation and enforcement scheme. It also continued to combat illegal, unreported and unregulated fishing activity in the North Pacific by providing long-range air surveillance and radar imagery, coordinated through NPAFC and WCPFC and related organizations. As a result of a European Community regulation, fish taken in fishing activities that did not comply with European Community or GFCM measures could not be placed on the market. Japan registered its inspection vessels with WCPFC in order to implement high seas boarding and inspection. Mauritius referred to the monitoring, control and surveillance scheme of IOC, under which regular surveillance missions were being carried out to combat illegal, unreported and unregulated fishing.

329. In addition to collaborating with regional fisheries management organizations, Mozambique was seeking to enhance regional monitoring, control and surveillance arrangements through the development of an informal regional heads of operations monitoring, control and surveillance network, regional monitoring, control and surveillance operations coordination centre, subregional vessel monitoring system and common regional training standards to facilitate joint monitoring, control and surveillance operations. Further, Mozambique was implementing a regional

[157] Japan, New Zealand, Panama, United States.

integrated fisheries information and statistical system and was seeking to advance the system from a catch-to-landing system to a full value chain tracking system, from "sea to plate".[158] Norway reported that it had contributed to the development of regional measures, including negative vessel lists of regional fisheries management organizations (CCAMLR, NEAFC and NAFO), mutual recognition by regional fisheries management organizations of such lists, port State schemes, mandatory use of vessel monitoring systems, stricter reporting requirements and regulation of trans-shipment.

330. The United States reported that, in addition to implementing vessel monitoring system measures regionally and in regional fisheries management organization and arrangement, and trade monitoring schemes adopted by regional fisheries management organizations and arrangements, it was in the process of implementing penalties contained in conservation and management measures adopted by regional fisheries management organizations and arrangements and related programmes concerning negative vessel lists (AIDCP, CCAMLR, IATTC, ICCAT, NAFO and WCPFC). These measures generally required members to prohibit the entry of listed illegal, unreported and unregulated fishing vessels into ports, restrict their activities while in areas under their jurisdiction, and prohibit supplying or fuelling, trans-shipping with or chartering listed illegal, unreported and unregulated fishing vessels.

331. National initiatives to enhance monitoring, control and surveillance, including the implementation of measures adopted by regional fisheries management organizations and arrangements, were reported by Guatemala and Mauritius. Guatemala was in the process of implementing an IATTC measure on the establishment of vessel monitoring systems. Mauritius referred to its implementation of the compliance and enforcement measures of IOTC. Sri Lanka has established monitoring, control and surveillance measures for vessels flying its flag. Uruguay referred to its activities in 2009 to improve national monitoring, control and surveillance systems. The Bolivarian Republic of Venezuela reported that it had exchanged information on illegal activities with regional fisheries management organizations of which it was a member.

332. *Alternative mechanisms for compliance and enforcement.* Few States addressed the issue of the development within regional fisheries management organizations of alternative mechanisms for compliance and enforcement pursuant to article 21, paragraph 15, of the Agreement, including other elements of a comprehensive monitoring, control and surveillance regime that effectively ensured compliance with the conservation and management measures adopted by the regional fisheries management organization. Canada and the United States expressed support for such mechanisms, and the United States reported that it was prepared to work with States to develop alternative mechanisms as part of a comprehensive and effective monitoring, control and surveillance regime.

333. Chile reported that the SPRFMO Convention guaranteed a boarding and inspection procedure for the organization. Guatemala emphasized that the creation of alternative mechanisms could encourage States to join regional fisheries management organizations, and recalled this as one effect of the negotiation of the

[158] Mozambique had applied for assistance with respect to these initiatives under the Assistance Fund established under Part VII of the Agreement.

2003 Antigua Convention, which permitted fishing entities to participate in the work of IATTC without being a member. Such mechanisms could also facilitate accession to the Agreement and eliminate obstacles that had prevented some States from becoming parties to the Agreement. The Bolivarian Republic of Venezuela recalled that accession to the Agreement depended not only on the implementation of a comprehensive monitoring, control and surveillance regime, but also on the legal issues associated with such implementation.

334. *Trans-shipment, supply and refuelling vessels.* A number of States reported on the adoption of stringent measures to regulate trans-shipment, in particular at-sea trans-shipment, and to prohibit supply and refuelling vessels from engaging in operations with vessels included on negative vessel lists.

335. Responding States referred to national laws regulating trans-shipment. Canada reported that trans-shipment must be authorized under its legislation, and foreign-flagged vessels intending to land or trans-ship in Canadian ports were required to undergo a port inspection. When there were reasonable grounds to suspect illegal, unreported and unregulated fishing by a vessel, landing and trans-shipment would be prohibited and the flag State as well as relevant regional fisheries management organizations would be immediately notified. Chile stated that vessels flying its flag were not permitted to trans-ship on the high seas, and could do so only in certain ports. They also must meet requirements for landing of catch, including the provision of catch documentation. Guatemala reported that trans-shipment at sea was prohibited, but permitted in port.

336. Japan reported that it required advance notification from fishing vessels flying its flag to land some tuna species, either directly from those vessels or from trans-shipment vessels. Landing of bluefin and southern bluefin tuna required the submission of a certificate of landed amount issued by a specialized inspection agency. Fisheries inspectors conducted random port inspections of landings to ascertain the amount of catch. Landing or trans-shipment by Japanese fishing vessels at foreign ports was managed by a licence system. Mauritius prohibited trans-shipment, except at an approved port. Trans-shipment at sea could be permitted if it was necessary and met appropriate management measures. Mozambique required observers to be present during at-sea trans-shipments and expected to move to a "no at-sea trans-shipment" scheme in the next year, augmented by the implementation of port State measures, including vessel inspections.

337. New Zealand's measures to regulate trans-shipment at sea and in port included the use of independent observers, vessel monitoring systems and detailed reporting requirements for the purpose of verifying all trans-shipped catch. New Zealand ensured that measures adopted by regional fisheries management organizations and arrangements were followed, and if no measures were in place, it only permitted its vessels to conduct trans-shipment where it could be satisfied that the trans-shipped fish would be accurately verified. Panama prohibited at-sea trans-shipment and controlled the activities of refrigerated cargo vessels involved in trans-shipment in port areas and territorial waters.

338. Peru reported that foreign-flagged tuna vessels fishing on the high seas could, subject to prior authorization by the competent authority and pursuant to national fisheries laws, trans-ship fish to another cargo vessel in a Peruvian port or harbour for transport abroad. Sri Lanka reported that trans-shipment was monitored under a

fisheries landing regulation and through the maintenance of log books. The United States reported that, under the Magnuson-Stevens Act, national vessels were not generally permitted to participate in at-sea trans-shipments of highly migratory fish species, and foreign fishing vessels and carrier vessels that acted as "mother ships" to fishing vessels at sea were prohibited from landing their catch in ports in the United States.[159] Uruguay prohibited trans-shipment.

339. A number of States reported on measures adopted by regional fisheries management organizations and arrangements concerning trans-shipment. Norway reported that ICCAT had established a record of carrier vessels and conditions for at-sea trans-shipment, such as flag State authorization, notification procedures and regional observer programmes. Under measures adopted by NAFO and NEAFC, only authorized vessels could engage in trans-shipment operations and specific reporting obligations had been introduced. SEAFO prohibited trans-shipments at sea. Guatemala and the United States reported that in 2006, IATTC had adopted rules governing trans-shipment at sea for certain species and vessel types. The United States would continue to work with WCPFC members to develop procedures to regulate trans-shipment, and with ICCAT parties to ensure the full implementation of its adopted measures.

340. States also reported on measures to prohibit supply and refuelling vessels from engaging in operations with vessels listed as engaging in illegal, unreported and unregulated fishing activities. Canada reported that it enforced measures adopted by various regional fisheries management organizations. Chile prevented vessels flying its flag and foreign-flagged vessels from providing support to vessels included in the negative vessel lists of regional fisheries management organizations. Japan's regulations did not directly prohibit vessels flying its flag from supplying and refuelling vessels listed as engaging in illegal, unreported and unregulated fishing, however it stated that a vessel engaging in such activities would be considered as an illegal, unreported and unregulated fishing vessel under measures adopted by some regional fisheries management organizations. Mauritius stated that all vessels engaged in fishing and related activities required a licence, and licences were not issued to vessels involved in illegal, unreported and unregulated fishing activities.

341. Mozambique reported that its proposed regional monitoring, control and surveillance operations coordination centre could facilitate the enforcement of measures against illegal, unreported and unregulated fishing vessels. Norway stated that the supply or refuelling of vessels listed in negative vessel lists, both at sea and in ports, was prohibited. Sri Lanka reported that measures had been taken to stop facilitating vessels engaged in illegal, unreported and unregulated fishing. The United States was developing regulations that would, as appropriate, prohibit supplying or fuelling, and trans-shipping with vessels included in the negative vessel lists of regional fisheries management organizations. The Bolivarian Republic of Venezuela reported that the prohibition on illegal, unreported and unregulated fishing activities applied to all of its vessels.

342. Canada and New Zealand also referred to the development of the FAO Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing, and noted that it would prohibit entry into port

[159] Except for certain territories, where foreign cargo vessels that accept at-sea trans-shipments of fish species and foreign-flagged fishing vessels can land product.

or use of port services for known or suspected illegal, unreported and unregulated fishing vessels as well as the vessels that supply and refuel illegal, unreported and unregulated fishing vessels.

343. *Fisheries access agreements*. The Review Conference recommended that fisheries access agreements be strengthened to include assistance for monitoring, control and surveillance, compliance and enforcement within areas under the national jurisdiction of the coastal State providing fisheries access.

344. In this regard, Guatemala indicated that, should any agreement on access to the fisheries of other States be negotiated in the future, account would be taken of the need to establish monitoring, control and surveillance mechanisms. Mozambique reported that, within SADC, consideration was being given to negotiating fisheries access agreements as a regional bloc in order to strengthen the negotiating position of members. Mauritius had fisheries access agreements with Japan and Seychelles, however, no provision for monitoring, control and surveillance was included in the agreements. Mauritius carried out sea and aerial patrols under its monitoring, control and surveillance system at the national level, and also participated in joint fisheries surveillance at the regional level.

345. New Zealand assisted Pacific Island countries in targeting illegal, unreported and unregulated fishing by providing aerial surveillance through regular patrols, and those countries provided information on priority areas and timing in order to direct surveillance to support wider national and international monitoring and enforcement programmes. Assistance was also provided to Pacific Island countries in connection with prosecutions arising from illegal fishing in their exclusive economic zones.

346. Although Norway had not entered into any access agreements with developing countries, all bilateral agreements to which it was a party included elements concerning monitoring, control and surveillance and enforcement. Panama noted that the Kobe process guidelines called for the provision of support to developing States in connection with monitoring, control and surveillance. Sri Lanka did not currently have any fisheries access agreements, however, future agreements would be strengthened with regard to monitoring, control and surveillance.

347. The United States reported that, in the limited circumstances in which its vessels fished in the exclusive economic zones of other States, it sought to negotiate equitable access agreements and ensure that its vessels were duly licensed and complied with the highest standards of reporting and monitoring, control and surveillance, including through the use of a vessel monitoring system and onboard observers. The United States noted that the 1987 multilateral Treaty on Fisheries between the Governments of Certain Pacific Island States and the Government of the United States of America was routinely identified as a model access agreement.

348. *Market-related measures*. In order to combat illegal, unreported and unregulated fishing, measures have been developed by States to ensure that only fish that have been taken in accordance with applicable conservation and management measures reach their markets, and steps have been progressively taken to require those involved in fish trade to cooperate fully to this end. A balanced approach has been fostered that recognizes the importance of market access for fishery products

and fish caught in a manner that is in conformity with the applicable conservation and management measures.[160]

349. Canada reported that several pieces of legislation applied to the entry of fish into its markets. Canada's Pacific integrated commercial fisheries initiative included traceability elements that were intended to bolster its capacity to trace fish products from harvest to consumption. Chile reported that it imported low levels of fish products and was not considering implementing commercial measures.

350. Although not a market State, Guatemala supported responsible trade and, in accordance with AIDCP, it applied the system for tracking and verifying tuna in order to ensure that tuna was caught in accordance with the management measures established under the Agreement. Guatemala voluntarily implemented the dolphin-safe certification, and would consider the adoption of new standards and systems to ensure that only fish products from legal activities reach the market.

351. Kenya reported that the review of its Fisheries Act would address market-related measures. Mauritius stated that its measures complied with the FAO Code of Conduct on Responsible Fisheries. All fishing vessels were inspected in its ports, and if a contravention of an international conservation and management measure was suspected, trans-shipment facilities would be denied and relevant regional fisheries management organizations notified. Mozambique reported that the design and implementation of its certification on legality of catch, coupled with pre-fishing briefings and port and sea inspections, would enhance its ability to ensure that only legally caught fish was permitted to be landed and enter the market. Panama was not a market State, but as a transit country it imposed severe penalties when it detected fishery products obtained by a vessel during a closed season or in a closed area. Sri Lanka reported that its market-related measures included the issuance of health certificates, ICCAT certificates for swordfish and statistical documents for bigeye tuna. In addition, there was an initiative to issue catch certificates.

352. The United States was modernizing its customs import entry systems by building an electronic interface for the submission and extraction of trade data. Its international trade data system would facilitate the collection of information pertaining to country of origin, harvesting vessel authorizations and ocean area of catch for seafood commodities. Real-time access to this information would enable the verification of the sources of products via communication with flag States and regional fisheries management organizations, which would expedite the entry of products caught in conformity with international measures while ensuring that products caught by illegal, unreported and unregulated fishing did not gain access to United States markets. The Bolivarian Republic of Venezuela reported that its relevant national fisheries authorities were coordinating to ensure that only products from legal fishing activities had access to markets.

353. Some States reported on the development and implementation of market-related measures adopted by regional fisheries management organizations.[161] Chile noted that the CCAMLR catch documentation programme applied to its industrial and artisanal domestic toothfish fishery. Japan stated that bluefin tuna, southern bluefin tuna, bigeye tuna and swordfish could only be imported following

confirmation that catches were from vessels on positive vessel lists, including that of the Organization for the Promotion of Responsible Tuna Fisheries. New Zealand also referred to the initiatives of regional fisheries management organizations, such as CCAMLR, CCSBT and WCPFC, to establish positive and negative vessel lists in order to verify compliance with conservation and management measures and to identify products from illegal, unreported and unregulated fishing catches.

354. The United States referred to the ICCAT prohibition on the importation of certain tuna and tuna-like species from specific States. CCAMLR and ICCAT have adopted catch documentation programmes for toothfish and bluefin tuna, respectively. ICCAT and IATTC have adopted statistical document programmes for frozen bigeye tuna, and ICCAT has established a statistical document programme for Atlantic swordfish.

355. *International Monitoring, Control and Surveillance Network for Fisheries-related Activities*. Several States reported joining the International Monitoring, Control and Surveillance Network for Fisheries-related Activities and supporting its enhancement.[162] In this regard, Canada had hosted a two-day meeting of the Network in 2007, the main outcomes of which included agreement on a process for establishing more formal governance, endorsement of a three-year enhancement project and the creation of an associated workplan. In addition to supporting these outcomes, Canada had encouraged broader membership and greater participation of members. Chile was the Executive Secretary of the Network and had collaborated in training efforts in developing countries. New Zealand underlined the importance of tangible outcomes from this initiative, as the need for monitoring, control and surveillance cooperation was paramount in supporting fisheries management objectives. While the primary focus of the Network was on illegal, unreported and unregulated fishing activities, it could be an effective mechanism for sharing information and effective practices that support fisheries management.

356. The United States was the Chair of the Network and hosted the Network and the three-year enhancement project. It reported that the project would provide the infrastructure of the Network, including through updating the website[163] and increasing staff and membership. The second Global Fisheries Enforcement Training Workshop, held in Norway in August 2008, enabled an exchange of information between monitoring, control and surveillance practitioners regarding enforcement tools.

357. Mozambique was seeking to establish a regional counterpart that would increase the effectiveness of the Network. Guatemala and the Bolivarian Republic of Venezuela expressed interest in joining the Network, while Kenya had yet to join because its monitoring, control and surveillance capability was still being developed.

358. *FAO Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas and comprehensive global record of fishing vessels*. Some States reported on their acceptance and implementation of the FAO Compliance Agreement, but referred mainly to laws and

measures that had been in place for a considerable time.[164] There was broad cooperation by States with FAO on the initiative to develop a comprehensive global record of fishing vessels, which would incorporate all available information on beneficial ownership, subject to confidentiality requirements in accordance with national law.

359. As parties to the FAO Compliance Agreement, New Zealand and the United States elaborated on relevant provisions in their domestic laws. Although the Compliance Agreement exempted vessels shorter than 24 metres from some obligations, New Zealand applied the authorization and recording obligations of the Compliance Agreement to all its flagged vessels fishing on the high seas. New Zealand had promoted universal acceptance of the Compliance Agreement through FAO and the General Assembly. The United States implemented the Compliance Agreement through its High Seas Fishing Compliance Act and exchanged information on implementation of the Compliance Agreement at the bilateral and multilateral levels, and reported directly to FAO.

360. Guatemala indicated that although it was not a party to the Compliance Agreement, it complied with its provisions and exercised flag State control as required under the Agreement. Kenya reported that the provisions of the Compliance Agreement were being integrated in the review of its Fisheries Act.

361. A number of States expressed support for the FAO initiative to develop a comprehensive global record of fishing vessels.[165] The FAO expert consultation held in February 2008 was a first step to identify a way forward in establishing such a global record.[166]

362. Canada supported the creation of a broad-based steering committee within FAO to design and implement a pilot project, which would prepare a comprehensive technical report and a technical consultation on the global record. Guatemala reported that FAO had held a workshop in El Salvador concerning the proposed global record, and stated that increased participation in the global record had yet to be addressed. New Zealand emphasized that vessel records and their links to beneficial ownership were a cornerstone for the effective monitoring and overall management of fisheries. It strongly advocated for the improvement of vessel records of regional fisheries management organizations and arrangements, both in terms of information collected and completeness, as this would be a necessary foundation for any possible global record.

363. Indonesia reported on measures to develop a national register of fishing vessels under its fisheries legislation, and Chile and Mauritius noted that they had sent a list of vessels flying their flag and authorized to fish on the high seas to FAO as required under the Compliance Agreement. Guatemala, Mauritius, Sri Lanka and the Bolivarian Republic of Venezuela reported on activities of regional fisheries management organizations and arrangements (IATTC and IOTC) to develop and maintain records of fishing vessels.

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[164] Canada, Chile, Japan, New Zealand, Sri Lanka, United States.

[165] Canada, Chile, Japan, Mauritius, New Zealand, United States.

[166] FAO Fisheries Report No. 865, "Report of the Expert Consultation on the Development of a

2. Measures adopted by regional fisheries management organizations

364. The role of regional fisheries management organizations and arrangements in monitoring, control and surveillance, compliance and enforcement has strengthened as States have increasingly recognized the need for stronger monitoring, control and surveillance. The past four years have seen dramatic improvement in collaboration among regional fisheries management organizations and arrangements, and measurable progress in strengthening compliance tools is anticipated in the future as the recommendations of performance review panels are implemented and new regional fisheries management organizations and arrangements join the expanding family of regional organizations.

365. Regional fisheries management organizations and arrangements have played a supportive role to States in strengthening effective control over vessels to ensure that such vessels comply with, and do not undermine, conservation and management measures adopted by regional fisheries management organizations and arrangements. In 2008, CCAMLR adopted a scheme to promote compliance by its members' nationals with CCAMLR conservation measures, including a requirement for members to verify if any person subject to their respective jurisdiction was engaged in specified illegal, unreported and unregulated fishing activities, and to take appropriate action where this occurred. It also adopted a measure that set out the licensing and inspection obligations of members with regard to their flagged vessels operating in the Convention area. ICCAT noted its recommendation concerning duties of flag States in relation to their vessels fishing in its Convention area.

366. Regional fisheries management organizations and arrangements have also supported the efforts of States in strengthening their domestic mechanisms to deter nationals and beneficial owners from engaging in illegal, unreported and unregulated fishing activities and in facilitating mutual assistance to ensure that such actions can be investigated and proper sanctions imposed. Negative vessel lists adopted by regional fisheries management organizations and arrangements can act as an incentive for States to take action and, in this regard, ICCAT noted its recommendation to promote compliance with its measures.

367. *Vessel monitoring system requirements*. Some regional fisheries management organizations and arrangements and regional fisheries bodies reported on efforts to ensure that vessels fishing on the high seas carried vessel monitoring systems. Measures requiring vessel monitoring system equipment have been in place in many regional fisheries management organizations and arrangements for several years, but there have been additional developments. Since the 1990s, FFA members have required all licensed vessels to carry mobile transceiver units, and this requirement remains an essential component of the requirement for good standing on the FFA vessel register. FFA members have endorsed the need for "port-to-port" monitoring of licensed foreign fishing vessels, so that the coastal State can monitor such vessels wherever they go.

368. CCSBT adopted a resolution in 2008 requiring southern bluefin tuna vessels to comply with vessel monitoring system requirements prescribed by CCAMLR, ICCAT, IOTC or WCPFC, depending on the convention area in which fishing activities were conducted. ICCAT required all tuna fishing vessels over 24 metres

tuna fishery were required to transmit messages to the ICCAT secretariat in accordance with the multiannual recovery plan for the fishery.

369. IOTC reported that, since 2007, vessel monitoring systems had been mandatory for vessels over 15 metres in length overall flying the flags of its members. NEAFC stated that vessel monitoring systems had been required in the NEAFC Regulatory Area since 2000. It was noted that article 27(2)(a) of the SPRFMO Convention would require the SPRFMO Commission to adopt procedures for the reporting of vessel movements and activities by a satellite-based vessel monitoring system. The WCPFC centralized vessel monitoring system became operational on 1 April 2009, with 1,200 vessels reporting to the system while on the high seas in the WCPFC Convention area within the first month of operation. By the end of May 2009, 3,200 vessels had registered with the system.

370. *Assessing flag State performance.* Some regional fisheries management organizations and arrangements reported on the development of processes for the assessment of flag State performance in implementing obligations under the Agreement and other international instruments, including consideration of trade measures to promote such implementation. The CCSBT Compliance Committee reviewed compliance with CCSBT measures each year, and consideration was being given to enhancing that process. Under the CCSBT statistical document programme and record of authorized vessels, members and cooperating non-members were not permitted to allow inadequately documented or authorized southern bluefin tuna to be imported, which comprised the majority of the global southern bluefin tuna market. The catch documentation scheme was expected to strengthen these measures after its implementation in January 2010.

371. The ICCAT Compliance Committee monitored flag State performance and any necessary action was considered in accordance with its recommendation on trade measures. The IOTC Compliance Committee reviewed, on an annual basis, the reports on implementation of measures by members and, where appropriate, by non-members. Members must also report on their actions in response to IOTC agreed decisions. IOTC has agreed to a procedure to implement market measures in cases of continuing lack of compliance with IOTC measures. Members were also expected to take action against vessels engaged in illegal, unreported and unregulated fishing activities, thus preventing access to markets of products derived from such activities.

372. The functions of the Commission, as set out in the SPRFMO Convention, would include the development of processes to assess flag State performance and the development of monitoring, control and surveillance, compliance and enforcement procedures, including non-discriminatory market-related and trade-related measures. FFA anticipated that there would also be a need to develop a regional initiative to monitor the flag State performance of its members.

373. WCPFC was developing a mechanism to monitor and report on compliance with its conservation and management measures. The procedures relating to the WCPFC negative vessel list provided for the adoption of non-discriminatory measures, including prohibiting commercial transactions, imports, landings and trans-shipments involving illegal, unreported and unregulated fishing vessels and encouraging traders, importers, transporters and others involved to refrain from transactions in species covered by the WCPFC Convention which were caught by

374. Regional fisheries management organizations reported that guidelines on fisheries sanctions to be applied by flag States had not been developed. CCSBT reported that there had been discussions of proposals for the administration of both over- and under-catches by members, including penalty regimes. However, the details of such a regime had not been agreed on. ICCAT reported that, in addition to trade sanctions, sanctions could be recommended for vessels found to be operating in a manner that undermined the eastern Atlantic and Mediterranean bluefin tuna management plan.

375. *Port State measures*. Port State measures have recently been a focus of attention for several regional fisheries management organizations and arrangements and other regional fisheries bodies. CCAMLR adopted a resolution in 2003 urging members to restrict landings of toothfish to the ports of States fully implementing its catch documentation scheme. In 2008, a measure on port inspections of vessels carrying toothfish was adopted. CCSBT reported that its priority was the implementation of the vessel monitoring system, trans-shipment and catch documentation scheme measures, while awaiting the outcome of the FAO process to develop the Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing. GFCM had adopted a regional scheme on port State measures, and ICCAT was developing port State measures.

376. Under the port inspection scheme of IOTC, members were encouraged to conduct routine inspections of vessels and take action when there was evidence of action detrimental to IOTC conservation and management measures. The revision and expansion of this measure was deferred until the completion of the FAO process to develop the Port State Measures Agreement. NAFO adopted port State measures in 2008, which apply to landings or trans-shipments in ports of Contracting Parties by fishing vessels flying the flag of another Contracting Party. NEAFC reported that its port State control system had been introduced in May 2007 without major problems, and the measure was considered to have had a dramatic effect on the quantity of illegal frozen fish in Europe. The SEAFO and SPRFMO Conventions contained articles concerning the duties of port States. WCPFC indicated that it was awaiting the outcome of the FAO process.

377. FFA reported that, in implementing the regional minimum terms and conditions for access to fisheries, its members applied agreed standards for port State control of fishing vessels. SEAFDEC supported the development of port State measures under the ASEAN framework to combat illegal, unreported and unregulated fishing in high seas areas or high sea fisheries.

378. *Compliance and enforcement mechanisms in regional fisheries management organizations and arrangements*. Regional fisheries management organizations and arrangements reported significant activity in relation to compliance and enforcement schemes and mechanisms, including mechanisms to coordinate monitoring, control and surveillance measures and exchange monitoring, control and surveillance information on illegal, unreported and unregulated fishing activities with other organizations and arrangements and relevant market States. Regional fisheries management organizations and arrangements also reported on a range of tools and procedures to monitor compliance with conservation and management measures, deter non-compliance and address illegal, unreported and unregulated fishing,

(CCSBT, GFCM, IOTC, WCPFC), standards for marking vessels and gear (IOTC, WCPFC), statistical document programme and catch documentation scheme (CCSBT), regional observer programmes (CCSBT, GFCM, ICCAT, IOTC, WCPFC), vessel monitoring systems (CCSBT, GFCM, IOTC, NEAFC, WCPFC), negative vessel lists (IOTC, NEAFC, WCPFC), port State measures (GFCM, IOTC, NEAFC) and high seas boarding and inspection procedures (WCPFC).

379. CCSBT was in the process of developing and implementing a monitoring, control and surveillance scheme for southern bluefin tuna. The catch documentation scheme, which included a requirement to tag each whole southern bluefin tuna, was due to come into effect on 1 January 2010. FFA reported that its members had continually improved the monitoring, control and surveillance regime in the Pacific Islands region since the 1980s, and a regional monitoring, control and surveillance strategy was expected to be finalized in 2010. The existing monitoring, control and surveillance regime complemented the regime adopted by WCPFC and included the accreditation of inspectors and inspection vessels for high seas boarding and inspection activities. FFA members have also entered into shiprider agreements with the United States Coast Guard. An initiative to allow national observers to work in other jurisdictions was under consideration, as this capability could enhance monitoring activity and reduce costs.

380. GFCM focused on strengthening the monitoring, control and surveillance system in its Convention area and had recently adopted a regional scheme on port State measures and vessel monitoring systems. The initiatives were expected to lead to the development of procedures for high seas boarding and inspection. A GFCM record of vessels over 15 metres authorized to fish in the Convention area was also maintained. A regional fishing vessel register, including all sizes of fishing vessels, was expected to be operational by 2011, and the introduction of a regional logbook was being considered.

381. ICCAT cooperated with other tuna regional fisheries management organizations in the implementation of observer programmes to monitor trans-shipment and the exchange of information on illegal, unreported and unregulated fishing vessels. Work on harmonization of measures and increased cooperation in other areas was ongoing. NEAFC reported that it had acted upon the findings of its 2006 performance review, which had recommended better use and quality control of data and improved coordination. In 2007, SEAFO incorporated all vessels identified in the negative vessel lists of CCAMLR, NAFO and NEAFC into the SEAFO negative vessel list.

382. It was noted that the SPRFMO Convention would require the development of effective monitoring, control and surveillance and enforcement procedures, and collaboration by the Commission with other organizations to develop a system relating to the ownership, control and movement of certain vessels, with the aim of reducing and eventually eliminating illegal, unreported and unregulated fishing.

383. *Alternative mechanisms for compliance and enforcement.* Some regional fisheries management organizations reported on the development of alternative mechanisms for compliance and enforcement pursuant to article 21, paragraph 15, of the Agreement, including other elements of a comprehensive monitoring, control

and management measures were aimed at the development of such alternative mechanisms.

384. IOTC had adopted alternative mechanisms for the participation of cooperating non-members that were not in a position to become members. NEAFC referred to the monitoring, control and surveillance measures that it had adopted. WCPFC has developed and implemented procedures for boarding and inspection on the high seas, including in respect of vessels flagged to non-members. These procedures may apply in their entirety to a member of WCPFC and a fishing entity, subject to WCPFC receiving notification to that effect from the member concerned.

385. FFA interpreted the phrase "alternative mechanisms" to mean measures in addition to boarding and inspection rather than measures to substitute for boarding and inspection. It noted that high seas boarding and inspection was a vital component of the compliance and enforcement tools used in the Pacific Islands.

386. *Trans-shipment, supply and refuelling vessels.* A number of regional fisheries management organizations and arrangements have adopted, or were considering adopting, stringent measures to regulate trans-shipment. CCAMLR adopted a conservation measure in 2008 establishing a notification system for trans-shipments within the Convention area, in view of the increasing number of vessels either engaged directly in harvesting activities or providing support to those vessels. There was concern that vessels involved in the support of illegal, unreported and unregulated fishing might be operating inside the Convention area.

387. In 2008, CCSBT established a programme for monitoring trans-shipment by large-scale fishing vessels, which came into effect on 1 April 2009. The resolution was based on measures adopted by IOTC and ICCAT. In order to avoid duplication and increase cost efficiency, the secretariats of CCSBT, IOTC and ICCAT were cooperating to enable the trans-shipment programmes to operate in conjunction with each other.

388. ICCAT adopted measures in 2005 limiting and monitoring at-sea trans-shipments, which were modified in 2006. An observer was required on all vessels receiving trans-shipments of tuna or tuna-like species in the ICCAT Convention area. At-sea transfer operations of bluefin tuna for farming purposes required the completion and submission of a transfer declaration. IOTC adopted a programme that required all trans-shipments at sea by its members' flagged vessels to be monitored by observers, while other parties were not allowed to trans-ship at sea. A trans-shipment declaration form would also document trans-shipment in port. Several IOTC members have banned trans-shipment at sea in their exclusive economic zones.

389. NEAFC reported that trans-shipment and trans-shipment vessels were covered by its scheme of control and enforcement, and stated that the blacklisting of trans-shipment vessels since 2005 had been very efficient. SEAFO adopted conservation measure 03/06 on trans-shipment, which prohibited trans-shipments at sea by vessels flying the flag of Contracting Parties. Trans-shipment in the port of a Contracting Party required the prior authorization of the port State and flag State. It was noted that the definition of fishing in the SPRFMO Convention would include

to determine when trans-shipment covered by the WCPFC Convention had been completed.

390. FFA reported that trans-shipment was regulated by the regional minimum terms and conditions for fisheries access. The majority of FFA members have laws requiring trans-shipment to be conducted only in a designated port. Trans-shipment at sea of catch that would not otherwise be suitable if retained on board for long periods of time was allowed. In the Second Implementing Arrangement adopted by the parties to the Nauru Agreement, high seas trans-shipment was prohibited as a condition of access to the exclusive economic zone of any party to that Arrangement. The trans-shipment measure under development by WCPFC was expected to be compatible with the measures adopted by FFA members.

391. Regional fisheries management organizations and arrangements reported somewhat less activity in developing measures prohibiting supply and refuelling vessels from engaging in operations with vessels listed as engaging in illegal, unreported and unregulated fishing. CCSBT reported that it had no specific measures on the matter. ICCAT was considering the issue in light of the development of port State measures. IOTC members were required to prohibit their flagged vessels from supplying, refuelling or trans-shipping catches with vessels listed in the IOTC negative vessel list and to deny access to port facilities to such vessels, except in cases of force majeure. NEAFC stated that such measures were the responsibility of Contracting Parties. SEAFO and WCPFC referred to the establishment of negative vessel lists.

392. The majority of members of FFA have legislation prohibiting the use of flagged vessels, including fishing vessels, supply, bunker and reefer vessels, to support illegal, unreported and unregulated fishing activities. Further, foreign-flagged supply, bunker and reefer vessels were required to obtain relevant authorizations and meet certain terms and conditions before engaging in fishing-related activities in areas within the national jurisdiction of FFA members.

393. *Market-related measures*. Regional fisheries management organizations and arrangements generally referred to catch documentation schemes, statistical document programmes, negative vessel lists and port State measures as mechanisms to ensure that only fish taken in accordance with applicable conservation and management measures reached their members' markets. CCAMLR adopted an extensive catch documentation scheme for toothfish in 2008 in order to reinforce existing conservation and management measures. It also recognized the importance of enhancing cooperation with non-contracting parties to help combat illegal, unreported and unregulated fishing. CCSBT highlighted its statistical document programme and record of authorized vessels. ICCAT had two statistical document programmes (for swordfish and bigeye tuna) and a catch documentation scheme for bluefin tuna, and was encouraging tail tagging and electronic systems. IOTC stated that its statistical document programme recorded the origin of frozen bigeye tuna caught in the Indian Ocean, and a regional observer programme had been established in 2009 to monitor all trans-shipments at sea. The development of a catch documentation scheme or statistical document programme was under consideration by WCPFC.

394. FFA reported that its members had denied landing and the use of port services

members have become subject to market State requirements and conditions relating to health and sanitary standards and catch documentation standards, among others.

395. *FAO Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas and comprehensive global record of fishing vessels*. Regional fisheries management organizations and arrangements reported devoting limited attention to promoting universal acceptance of the FAO Compliance Agreement, but some acknowledged that the underlying principles formed a basis for some provisions in their Convention (WCPFC) or conservation and management measures, particularly in relation to vessel records (ICCAT), or were promoted at workshops and meetings (FFA).

396. Considerably more attention has been given to the development of records of fishing vessels with unique vessel identifiers, both at the regional level and by FAO. CCSBT maintained a global record of vessels authorized to fish for southern bluefin tuna. The five tuna regional fisheries management organizations were cooperating to develop a global record of authorized tuna vessels and to implement a unique vessel identifier for tuna vessels.[167] NEAFC had hosted one of the preparatory meetings concerning the development of the FAO global register of fishing vessels and was considering participating in a trial of a possible system.

397. FFA noted that there would be difficulties in obtaining information about the beneficial ownership or the parent company of a registered fishing vessel. Members of FFA would need to amend their legislation to require vessels applying for access to supply this information.

3. Activities undertaken by the Food and Agriculture Organization of the United Nations

398. *Assessing flag State performance*. FAO has played a central role in developing appropriate processes to assess flag State performance with respect to implementing obligations regarding fishing vessels as set out in the Agreement and other relevant international instruments. Following the FAO Expert Consultation on Flag State Performance held in Rome in June 2009,[168] FAO planned to convene a technical consultation in 2010, subject to the availability of funding.

399. *Port State measures*. The process within FAO to develop a legally binding instrument on port State measures concluded with the approval of the Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing by the Conference of FAO on 22 November 2009.[169] The Port State Measures Agreement will enter into force 30 days after the date of deposit of the twenty-fifth instrument of ratification, acceptance, approval or accession.

400. In other developments, FAO has held eight regional workshops on human resource development and capacity-building since August 2006. In addition, two in-country workshops were held as pilot projects in order to develop national capacity and promote coordination so that States would be better placed to strengthen and harmonize port State measures and, as a result, implement the

[167] The record is available at www.tuna-org.org/.

[168] The report of the Expert Consultation is available at ftp://ftp.fao.org/docrep/fao/012/i1249e/

relevant tools of the FAO International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing and the FAO Model Scheme on Port State Measures to Combat Illegal Unreported and Unregulated Fishing, and contribute to the development of the FAO Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing.

401. *FAO Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas and comprehensive global record of fishing vessels*. FAO reported that, as at 31 July 2009, 37 States and the European Community had accepted the Compliance Agreement. FAO convened an expert consultation in February 2008, which strongly endorsed the global record concept and envisaged the global record as a portal underpinned by a global database where information from many sources would be gathered and stored in one location, making it a "one-stop shop" for fishing vessel-related information.[170]

402. In 2009, the twenty-eighth session of the FAO Committee on Fisheries endorsed a programme of further work on the global record that included, inter alia, assessing user needs, particularly in developing countries, designing and implementing a pilot project and doing other technical work that could lead to a technical consultation. FAO noted that the work done to date had positively established the feasibility of the global record concept and excellent progress had been made in developing options and engaging partnership opportunities to trial those options. The work was proceeding expeditiously but might be endangered owing to a shortage of funds.

4. Analysis of the extent to which the recommendations of the Review Conference have been implemented

403. Most States reported on legislative mechanisms and other monitoring, control and surveillance tools used to strengthen effective control over vessels flying their flag, but there was generally no clear indication of the measures that had been introduced since the Review Conference. Several responding States referred to national licensing requirements for vessels operating on the high seas, but few examples were given of controlling the activities of nationals in areas beyond national jurisdiction. Only a few States provided information on measures to prohibit nationals and vessels from engaging in unauthorized fishing in areas under the national jurisdiction of other States.

404. All States supported compliance with conservation and management measures adopted by regional fisheries management organizations and arrangements and identified specific measures of such organizations and arrangements to strengthen control over vessels on the high seas, but without assessing their strengths or weaknesses. In turn, some regional fisheries management organizations referred to their actions to support strengthened compliance by their members with conservation and management measures.

405. A range of requirements for vessel monitoring systems and other monitoring, control and surveillance tools was reported by States, including strong administrative and judicial processes and deterrent fines and penalties. Some

regional fisheries management organizations have encouraged States to strengthen and harmonize the latter, and regional fisheries management organizations emphasized the progress made in adopting and implementing vessel monitoring system schemes and requirements.

406. There was a strong focus on new initiatives, particularly at international and regional levels, to assess and improve flag State performance and adopt port State measures, in particular, the FAO Expert Consultation on Flag State Performance (see para. 398 above) and the European Community regulation on illegal, unreported and unregulated fishing. Some regional fisheries management organizations and arrangements reported on their processes to assess flag State performance, including by consideration of trade sanctions. The 2008 initiative of WCPFC to establish a mechanism to monitor and report on compliance with conservation and management measures could serve as a positive example for other regional fisheries management organizations. The development of regional guidelines for flag States to evaluate their systems of sanctions was generally still under preliminary — and limited — consideration, and was an area for further review, taking into account the development of criteria for flag State performance in the proposed FAO technical consultation.

407. The adoption of the Port State Measures Agreement was a culmination of broad-based cooperation by the international community to identify minimum standards, and was expected to provide a catalyst for future efforts by States and regional fisheries management organizations and arrangements to exchange information on illegal, unreported and unregulated fishing operations and harmonize actions and measures. Some regional fisheries management organizations and arrangements have begun to incorporate the standards in their regional schemes, while others have been awaiting the outcome of the FAO process. States reported on measures that have been taken at national level.

408. More generally, most States responded that the regional fisheries management organizations in which they were members had adopted compliance and enforcement schemes and they welcomed the expanding cooperation among tuna regional fisheries management organizations and other regional fisheries management organizations. There was a reciprocal interface between regional and national levels through the initiation of compliance and enforcement measures; some notable contributions by States were reported to improve regional cooperation by pioneering compliance measures at national level, such as establishing an IUU vessel list and bringing the initiative to regional fisheries management organizations. Conversely, a number of States reported on their actions to implement regional schemes.

409. Some regional fisheries management organizations and arrangements emphasized their recent actions to develop and implement a regional monitoring, control and surveillance scheme or strategy and to cooperate with other organizations and arrangements, while others referred to strengthened schemes and the integration of compliance tools. There appeared to be widespread activity across regional fisheries management organizations and arrangements in this regard, but its actual impact on compliance was not addressed.

410. Most respondents did not address the development of alternative mechanisms

the meaning of alternative mechanisms and whether it included high seas boarding and inspection.

411. Several States reported on the adoption of measures to regulate trans-shipment, in particular at-sea trans-shipment, and many States supported measures by regional fisheries management organizations. No respondents addressed the work of FAO in studying the current practices of trans-shipment as it related to fishing operations and the production of a set of guidelines for this purpose. Several regional fisheries management organizations reported on their increasingly stringent measures and monitoring programmes in relation to trans-shipment practices, including by carrier vessels. The inclusion of trans-shipment vessels on illegal, unreported and unregulated fishing vessel lists had proved very effective. This has clearly been an area of widespread focus, including under memorandums of understanding among some regional fisheries management organizations.

412. Few responding States have taken measures to prohibit the supply and refuelling of vessels on negative lists of regional fisheries management organizations; however, one regional fisheries body referred to national prohibitions by its members in this regard. One practical challenge was to ensure that current information on negative vessel lists was provided to relevant supply and refuelling vessels.

413. A few States reported on initiatives to strengthen fisheries access agreements as a mechanism for assistance in monitoring, control and surveillance, compliance and enforcement. The examples, provided mostly by developed States, demonstrated the potential benefits of this approach to assistance.

414. Several States reported on the implementation of market-related measures, in particular measures adopted by regional fisheries management organizations. Import regulations and improved technology were playing an increasingly significant role in ensuring that only legally caught fish entered States. Requirements for the confirmation of the legality of a catch prior to its import were appearing at all levels. The expanding use of electronic systems, such as the United States international trade data system, could be effective in verifying sources of seafood products being offered for entry into States and assist in combating illegal, unreported and unregulated fishing. Regional fisheries management organizations had taken a number of market-based measures, but did not address the recommendation to take steps to require those involved in the fish trade to cooperate fully or the importance of market access for legally caught fish.

415. Some States reported that they had joined the International Monitoring, Control and Surveillance Network for Fisheries-related Activities and supported its enhancement. The Network was encouraged to produce tangible outcomes and share information and practices that would support fisheries management.

416. Although promotion of universal acceptance of the FAO Compliance Agreement was not generally reported, some States referred in general to long-standing actions they had taken to implement the Compliance Agreement. Some regional fisheries management organizations and arrangements also referred to the fact that the underlying principles of the Compliance Agreement formed a basis for their conservation and management measures. The development of a comprehensive FAO global record of fishing vessels was still in its early stages, but was regarded as a useful initiative. Several tuna regional fisheries management organizations

described their cooperative processes to develop unique vessel identifiers and a global record for tuna vessels. It was noted that legal underpinning would be needed at the national level.

D. Developing States and non-Parties to the Agreement

417. The Review Conference affirmed that increasing adherence to the Agreement was vital to promoting full implementation of the Agreement and achieving its objective. The Review Conference further recognized the need to provide assistance to developing States relating to conservation and management of straddling fish stocks and highly migratory fish stocks and participation in such fisheries. In reviewing efforts to implement Part VII of the Agreement relating to the requirements of developing States, it was assessed that enhancing assistance to developing States Parties was necessary to enable such States to implement the Agreement to the fullest extent possible.

1. Promoting wider participation in the Agreement

(a) Status of the Agreement

418. There are currently 77 Parties to the Agreement, including the European Union, representing an increase of 20 Parties since the Review Conference was held in 2006.[171] There are nearly twice as many developing States Parties to the Agreement as developed States Parties, which underscores the importance of providing assistance to developing States to promote wider participation in the Agreement.

(b) Activities to promote wider participation in the Agreement

419. The Review Conference recommended additional efforts to obtain universal participation in the Agreement to ensure its effectiveness. It urged all States with an interest in fisheries for straddling fish stocks and highly migratory fish stocks to become parties to the Agreement as soon as possible and disseminate information about the Agreement, including its objective and the rights and duties it provides. It also recommended that States exchange ideas on ways to promote further ratification and accession to the Agreement through a continuing dialogue to address concerns raised by some non-Parties regarding, in particular, articles 4, 7, 21, 22, and 23 of the Agreement.

420. Several States reported on actively encouraging other States to become parties to the Agreement through bilateral cooperation, regional fisheries management organizations and arrangements, informal consultations of States Parties, the General Assembly, the FAO Committee on Fisheries and other international meetings.[172] Canada highlighted the Assistance Fund established under Part VII of the Agreement as an incentive to developing countries to become parties to the Agreement.

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[171] Bulgaria, Czech Republic, Estonia, Hungary, Indonesia, Japan, Latvia, Lithuania, Mozambique, Nigeria, Niue, Oman, Palau, Panama, Republic of Korea, Romania, Slovakia, Slovenia, Trinidad and Tobago, Tuvalu.

[172] Canada, Japan, Mauritius, New Zealand, Norway, United States.

421. In 2009, the Secretary-General convened the eighth round of informal consultations of States Parties to the Agreement to consider, inter alia, promoting wider participation in the Agreement through a continuing dialogue, in particular with developing States.[173] It was generally recognized that the continuing dialogue had initiated an important process to increase participation in the Agreement, which would continue in other forums. Participants engaged in fruitful discussions and developed a deeper understanding of the various perspectives that affected promoting a wider participation in the Agreement.

422. New Zealand reported that it continued to work within regional fisheries management organizations to agree on measures that ensure at a minimum the requirements in the Agreement on boarding and inspection and on port State measures. Norway has prepared papers analysing specific aspects of the Agreement in order to broaden participation, including the relevance of the Agreement to States not fishing on the high seas, which have been presented at several sessions of the FAO Committee on Fisheries and during informal consultations of States Parties.

423. As a State non-Party, Guatemala reported that it had attended meetings at which attempts had been made to resolve difficulties concerning the Agreement, with a view to becoming a party to the Agreement. Guatemala stated that it had implemented the provisions of the Agreement directly through national law and adhered to its principles as a member of regional fisheries management organizations and by complying with the management measures of those organizations of which it was not a member. Given the largely instrumental nature of the Agreement, it was possible for States non-Parties to comply with its requirements under international law, particularly the substantive aspects of the Agreement.

2. Assistance to developing States in the implementation of the Agreement

424. *Mechanisms to assist developing States and specific areas of assistance*. Some developed States described forms of assistance to developing States, both under the Part VII Assistance Fund and other bilateral or regional mechanisms (see also paras. 222 and 223 above). Canada, New Zealand, Norway and the United States reported that they had contributed to the Part VII Assistance Fund. Kenya, Mozambique, Sri Lanka and Uruguay confirmed their need for assistance.

425. Norway has provided assistance to developing countries in Africa through the Nansen Programme, which has a long-term objective of self-sufficiency in research and management through the development and strengthening of institutions. Assistance in connection with fisheries data and related information has also been provided to African countries and China. Financial assistance has been provided for monitoring, control and surveillance workshops convened by FAO. Norway has also provided assistance to Namibia to establish a national monitoring, control and surveillance system.

426. Indonesia and the Philippines were implementing a data-collection project for the tuna species covered by WCPFC. The three-year West Pacific-East Asia Oceanic Fisheries Management Project, which also involved Viet Nam, was funded through

[173] For the summary of the Moderator of the continuing dialogue, see ICSP8/UNFSA/REP/INF.6, annex II, available at http://www.un.org/Depts/los/convention_agreements/fishstocksmeetings/icsp8report.pdf.

WCPFC. The United States conducted monitoring, control and surveillance-related training in Ghana in 2008 and in Senegal in 2009. A joint fisheries observer training in Cameroon was planned for late 2009. The United States also sponsored participants from western and southern Africa to attend a fisheries observer and monitoring conference held in July 2009 in the United States. Technical assistance and capacity-building was provided to some States on specific topics, including the development of national programmes of action for sharks and the enforcement of shark-finning prohibitions.

427. *Participation in regional fisheries management organizations.* Some responding States and regional fisheries management organizations described efforts to enhance the participation of developing States in those organizations, including through facilitating access to fisheries for straddling fish stocks and highly migratory fish stocks, in accordance with article 25, paragraph 1 (b), of the Agreement, as well as ensuring that such access benefits the States concerned and their nationals (see also paras. 221-224 and 244-246 above). Kenya, Mozambique, Peru and Sri Lanka indicated that they would welcome such assistance.

428. Guatemala attended the meetings of regional fisheries management organizations of which it was a member and defended its interests as a developing State. Guatemala and the Bolivarian Republic of Venezuela both encouraged the participation of other developing States in regional fisheries management organizations and arrangements. Japan supported, in principle, the aspirations of developing States to promote their fisheries so long as the sustainability of the target fish stocks were secured, and recognized that the incentive of realizing those aspirations would enhance the active participation of developing States in regional fisheries management organizations and arrangements.

429. New Zealand provided support to Pacific regional institutions, including FFA, SPC and the Pacific Island Applied Geoscience Commission, and through bilateral development assistance programmes, to help developing Pacific Island States improve their participation in regional fisheries management organizations and arrangements. New Zealand also provided assistance to some Polynesian States and organized regular meetings to discuss key issues. Norway provided legal assistance to developing countries during the negotiations for the establishment of SWIOFC and SIOFA, and provided technical support to Namibia for the establishment of the SEAFO secretariat.

430. Peru required technical and financial assistance in order to conduct scientific research, particularly in relation to the assessment and structure of straddling fish stocks in the high seas, within the framework of regional cooperation mechanisms.

431. Several regional fisheries management organizations reported on actions to enhance the participation of developing States in their activities. CCAMLR adopted a policy to enhance cooperation between members and non-members, including developing States. CCSBT facilitated access by issuing the status of cooperating non-member to developing States and by granting an associated allocation of the global total allowable catch.

432. FFA reported on several activities: the adoption by WCPFC in 2008 of the resolution on aspirations of small island developing States and territories; maintaining domestic development interests in measures adopted by WCPFC in 2008; promoting the interests of developing States at the second joint meeting of

tuna regional fisheries management organizations in 2009; and ensuring that the SPRFMO Convention facilitated the participation of FFA members in accessing straddling stocks and high seas fish stocks in the high seas. FFA stated that there was an ongoing need to operationalize the principles contained in articles 24, 25 and 26 of the Agreement.

433. GFCM reported that it had strengthened the capacities of national research institutions in data collection, stock assessment and fisheries management, including through FAO subregional projects. ICCAT referred to its measure concerning criteria for the allocation of fishing possibilities and the establishment of funds to assist with capacity-building, particularly in relation to data collection.

434. Several measures adopted by IOTC recognized the special requirements of developing States and, in particular, small island developing States (see also para. 285 above). Under the IOTC financial regulations, the calculation of contributions to the IOTC budget takes into account the development status of each member and its per capita gross national income.

435. SEAFDEC had provided several forums to discuss national and regional policies on fisheries management for straddling fish stocks and highly migratory fish stocks. However, a major challenge for fisheries management was the quality of data collected. Precautionary approaches to sustainable capture fisheries and community-based fisheries resources management were the key measures that needed to be promoted. The SEAFO Convention included an article on the recognition of the special requirements of developing States. In 2009, SEAFO agreed to establish a special requirements fund to help developing State members participate in SEAFO and enhance their ability to conserve and manage the fisheries resources.

436. The WCPFC Convention acknowledged the special requirements of small island developing States and participating territories. A voluntary fund has been established to support capacity-building and participation in WCPFC meetings of one representative of each small island developing State and participating territory. The formula for assessing annual contributions in WCPFC provides for a 40 per cent discount for catches taken by developing State vessels within waters under national jurisdiction.

437. *Domestic regulatory fisheries policies*. The Review Conference also recommended that developed States cooperate with and assist developing States in designing and strengthening their domestic regulatory fisheries policies and those of regional fisheries management organizations in their regions. Kenya and Mozambique stated that they would welcome such assistance, and some developed States reported on key bilateral and multilateral programmes that had been undertaken.

438. Japan assisted SEAFDEC in its efforts to help its member States develop and strengthen fisheries management through voluntary contributions and by dispatching a policy advisor. New Zealand has provided support to FFA which, in turn, supported developing member countries regarding the regulatory and policy environment for fisheries. New Zealand has also provided bilateral assistance to the Solomon Islands and the Cook Islands. Norway assisted in drafting new fisheries legislation in Namibia, South Africa and Viet Nam, which took into account the fundamental principles set out in the Agreement. The United States has promoted

the use of circle hooks in longline fisheries, provided technical assistance on the use of turtle excluder devices and conducted fisheries enforcement workshops throughout Central America to strengthen regulatory mechanisms.

439. Guatemala reported that it was cooperating with other developing States in Central America by sharing its experience, exchanging data and harmonizing, when relevant, the management of certain fisheries resources. Coordination efforts were undertaken prior to meetings of regional fisheries management organizations and other international mechanisms under the auspices of OSPESCA in order to reach a consensus on issues and adopt a common position at the meetings. The Bolivarian Republic of Venezuela reported that there was cooperation with developing States in designing conservation measures, but no action had been taken under regional fisheries management organizations and arrangements to strengthen their domestic regulatory policies.

440. *Coherence in the provision of assistance and cooperation.* The Review Conference recommended that coherence in the provision of assistance and cooperation be promoted, both by individual Governments and through international mechanisms. Japan recognized that good cooperation among relevant programmes was important, and stated that its participation in both bilateral and multilateral programmes would promote coherence. Kenya indicated that regional monitoring, control and surveillance collaboration would be important in this regard. New Zealand reported that it sought to work in accordance with the Paris Declaration on Aid Effectiveness, the Accra Agenda for Action and the Pacific Aid Effectiveness Principles, to ensure that fisheries development assistance was aligned with national and Pacific regional priorities.

441. *Part VII Assistance Fund.* The Review Conference agreed to recommend that FAO and the Division for Ocean Affairs and the Law of the Sea should (a) further publicize the availability of assistance through the Part VII Assistance Fund and (b) solicit views from developing States Parties regarding the application and award procedures of the Fund, and consider changes where necessary to improve the process.

442. FAO continued to publicize the Part VII Assistance Fund at meetings of the FAO Committee on Fisheries and by advising eligible countries of the existence of the Fund in regional and national meetings and requesting the secretariats of relevant regional fisheries management organizations to remind eligible States about the Fund. As far as FAO was aware, States Parties to the Agreement were not experiencing difficulties in accessing funding. In the revised terms of reference, as agreed to at the seventh round of informal consultations of States Parties in 2008,[174] several administrative ambiguities had been removed which, in turn, had facilitated and streamlined access by States Parties and administration by FAO.

443. The Division for Ocean Affairs and the Law of the Sea has also undertaken extensive efforts to promote the Part VII Assistance Fund. It sent notes verbales regarding the Assistance Fund to all States Members of the United Nations in December 2004, April 2006, May 2007 and March 2008. A note verbale will be sent to Member States before the resumed Review Conference to publicize the

[174] ICSP7/UNFSA/REP/INF.2, annex II, available at www.un.org/Depts/los/convention_agreements/fishstocksmeetings/icsp7report.pdf.

availability of assistance to enable representatives of eligible States to participate in the resumed Review Conference.

444. Detailed information regarding the Fund is also available on the Division's website, including the revised terms of reference and information on the application process. In response to feedback from some developing States, the Division has altered the appearance of the website to enable users to more easily find this information. Representatives of the Division have also promoted the Fund at international meetings concerning fisheries, including meetings of the FAO Committee on Fisheries, informal consultations of States Parties, the informal consultations of the General Assembly on the resolution on sustainable fisheries and the most recent meeting of the regional fisheries body secretariats, held in Rome in March 2009.

445. The Review Conference also recommended that regional fisheries management organizations establish a link to the Part VII Assistance Fund home page. CCSBT, ICCAT, IOTC, NEAFC, SPRFMO and WCPFC reported that their respective websites incorporated such a link. A link also appears on the website established by the tuna regional fisheries management organizations.[175]

446. With regard to the application and award procedures of the Part VII Assistance Fund, New Zealand was investigating if Tokelau, a territory of New Zealand, was eligible to apply for assistance. Mozambique observed that the Fund was targeted to individual States only and suggested that there should be a mechanism for joint applications by States to fund regional initiatives. It also suggested that where there was a meeting to be attended by a number of participants from States eligible for assistance under the Fund, the organizers should administer the funds under one application rather than a number of separate applications by each eligible State. In this regard, Mozambique referred to its role as host of the Third Global Fisheries Enforcement Training Workshop in 2010 for upwards of 300 persons.

447. Mozambique also suggested that applications for assistance should be acknowledged within a certain time together with an indication of when a decision on the application could be expected. It was noted that it was the practice of the Division to acknowledge applications for assistance upon receipt.

448. The terms of reference of the Assistance Fund provide the legal framework for determining the eligibility of an applicant for assistance and the kind of activities that may be funded. An application for assistance may be submitted by an appropriate subregional or regional organization or arrangement on behalf of developing States Parties pursuant to paragraph 12 (a) of the terms of reference. Such applications have been received from FFA, SPC, SEAFO and WCPFC on behalf of their respective eligible members.

3. Capacity-building needs of developing States

449. In preparation for the eighth round of informal consultations of States Parties, held in 2009, and in order to facilitate the discussions during the continuing dialogue to promote wider participation in the Agreement, the Secretariat prepared a compilation which contained, inter alia, information on the needs of developing States with regard to capacity-building and assistance in the conservation and

[175] www.tuna-org.org.

management of straddling fish stocks and highly migratory fish stocks.[176] In addition, further information was provided by some responding States and regional fisheries management organizations regarding the capacity-building needs of developing States in relation to the implementation of the Agreement.

450. Capacity-building needs identified by Mauritius included training in the use of software for data compilation and exchange; stock assessment techniques; the preparation of fisheries management plans; monitoring, control and surveillance, compliance and enforcement; port State control to regulate trans-shipment; and certification systems for food safety, quality and traceability of fish and fish products. New Zealand observed that the capacity-building needs of Tokelau included stock assessment and scientific research; data collection and reporting; monitoring, control and surveillance; port State measures; development of fisheries for straddling fish stocks and highly migratory fish stocks; human resource development; and the sharing of information, including information on vessels and illegal, unreported and unregulated fishing activities.

451. Thailand identified the following capacity-building needs: bilateral assistance between developing States and donor States particularly through exchange of experience; technical assistance in implementing the Agreement and relevant instruments; regional monitoring, control and surveillance workshops and establishment of regional monitoring, control and surveillance networks, including transfer of technology; financial management training for small-scale fishers and all stakeholders; training regarding stock assessment and research; and training programmes on boarding and inspection control and activities of flag States.

452. CCAMLR reported that training missions sponsored by CCAMLR members had been undertaken in developing States. Developing States with perceived interests in CCAMLR matters were also invited as observers to CCAMLR annual meetings. FFA referred to the recently adopted regional tuna strategy, which elaborated on the following objectives for FFA members: sustainable oceanic fish stocks and ecosystems; and economic growth from highly migratory fish stocks fisheries. A range of capacity-building needs was identified in connection with these objectives, including building capacity for national stock assessment and analysis; increasing the knowledge of status and management of stocks at regional, subregional and national levels; implementing the regional monitoring, control and surveillance strategy; enhancing technical capacity within national administrations; enhancing capacity for greater domestic participation in highly migratory fish stocks fisheries and other fishing opportunities; and increasing revenue from fisheries and reducing reliance on traditional access agreements; capacity-building programmes on market and trade issues to improve market access; and promoting optimal governance structures and private sector capacity. The following training needs were also identified: fisheries management and planning; strengthening zone management capability; vessel day schemes; use of reference points; and use of rights-based approaches.

[176] ICSP8/UNFSA/INF.4/Rev. available at www.un.org/Depts/los/convention_agreements/fishstocksmeetings/compilation2009updated.pdf. Eight developing States, two of which are Parties to the Agreement, provided information regarding their needs.

4. Available capacity-building mechanisms and programmes

453. A range of capacity-building mechanisms and programmes is available to developing States for assistance in implementing the Agreement as well as for general fisheries needs, in addition to the Part VII Assistance Fund. The compilation prepared by the Secretariat (see para. 449 above) contained a list of sources of financial assistance and other available vehicles for assistance that could be accessed by developing States in order to increase their capacity in the conservation and management of fishery resources.[177] It also described areas of fisheries-related assistance available from eight States,[178] the European Community, regional organizations, programmes and funds,[179] international financial institutions and global organizations, programmes and funds.[180]

5. Analysis of the extent to which the recommendations of the Review Conference have been implemented

454. The Review Conference considered increased adherence by developing States and States non-Parties to the Agreement to be vital to promoting full implementation of the Agreement and achieving its objective. It was clear that enhanced assistance to developing States was necessary to enable such States to fully implement the Agreement. The continuing dialogue to promote wider participation in the Agreement was an important process, contributing to a deeper understanding of perspectives that affect promotion of a wider participation in the Agreement.

455. Several developed States reported that they had made contributions to the Part VII Assistance Fund. Substantial donor activity through bilateral and multilateral mechanisms, including technical assistance, was reported for a range of fisheries management-related activities. Importantly, some States also made efforts to enhance the participation of developing States in regional fisheries management organizations, and assistance has been provided for improving regulatory mechanisms and drafting new fisheries legislation, taking into account the fundamental principles of the Agreement. Developing States welcomed the assistance that had been provided. No information was provided concerning some of the forms of assistance recommended by the Review Conference, including assistance for port State control, compliance with market and trade-related measures, meeting market requirements and the sharing of vessel information.

456. Regional fisheries management organizations reported on a variety of approaches to enhance participation by developing States, including through facilitating access to straddling and highly migratory fish stocks. Such measures included a policy on cooperation, granting an allocation of the global total allowable catch to cooperating non-members, capacity-building, establishment of funds for capacity-building and participation in meetings, and through conservation and management measures. The different approaches may reflect the needs of a

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[177] Ibid.

[178] Australia, Denmark, Japan, Mexico, New Zealand, Norway, Russian Federation, United States.

[179] Asian Development Bank, Caribbean Community Secretariat, Marketing Information and Technical Advisory Services for Fish Products in Latin America and the Caribbean (INFOPESCA), Organization of Eastern Caribbean States, SPC and WCPFC.

[180] FAO, GEF, Organization for Economic Cooperation and Development, United Nations Development Programme and United Nations Industrial Development Organization.

particular region, but it was not possible to confirm this or to assess the effectiveness of each mechanism on the basis of available information.

457. Some respondents provided information elaborating on the current capacity-building needs of developing States, which covered a wide range of areas. Some respondents also identified capacity-building mechanisms and programmes available to developing States for assistance in implementing the Agreement as well as for general fisheries needs. Both FAO and the Division for Ocean Affairs and the Law of the Sea have made significant efforts to further publicize the availability of assistance through the Part VII Assistance Fund and to strengthen the effectiveness of this mechanism.

IV. Conclusions

458. There have been no major changes in the overall state of stocks and fisheries catches since the last assessment made in 2005, and the majority of species for which information was available are still considered either fully exploited or overexploited. The quality of future evaluations of the performance of the Agreement will require substantial improvements in the availability of data and information on the high seas stocks and fisheries.

459. States and regional fisheries management organizations have taken significant actions to implement the recommendations adopted by the Review Conference in 2006. In the conservation and management of fishery resources, progress has included the implementation of the precautionary and ecosystem approaches, the use or development of management tools and reduction of excess fishing capacity. Further efforts are needed regarding the development of measures on deep-sea fisheries, subsidies, discards and derelict gear, data collection and strengthened compliance by members of regional fisheries management organizations and arrangements, including audits of compliance by members with reporting and information obligations.

460. Considerable efforts have been made to strengthen the mandates and conservation and management measures of regional fisheries management organizations and arrangements, including through performance reviews, and progress has been made in the establishment of new organizations and arrangements and in strengthening cooperation among, and promoting transparency in, existing and developing organizations and arrangements. Additional efforts are needed to ensure that members and cooperating non-members support relevant actions and measures of regional fisheries management organizations and arrangements, and for effective decision-making.

461. Regional fisheries management organizations have also increased efforts to develop and implement regional monitoring, control and surveillance schemes, including through expanded cooperation among regional fisheries management organizations. However, further progress is needed by States to control their nationals and vessels in areas beyond national jurisdiction. Current efforts to improve flag State performance are much welcomed. The adoption of the FAO Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing represents a significant development in combating illegal, unreported and unregulated fishing.

462. Increased assistance should be provided to developing States, including through the Part VII Assistance Fund, to enhance their capacity to conserve and manage straddling fish stocks and highly migratory fish stocks in areas under their national jurisdiction and to enable their participation in high seas fisheries for these stocks.

463. Finally, efforts by States and regional fisheries management organizations to promote wider participation in the Agreement, in order to achieve the goal of universal participation, should be commended. It has been noted that since the suspension of the Review Conference in 2006, 20 more States have become parties to the Agreement.

Annex

List of respondents to the questionnaire

States

Canada
Chile
Cuba
Guatemala
Indonesia
Japan
Kenya
Mauritius
Mozambique
New Zealand
Norway
Panama
Peru
Philippines
Qatar
Sri Lanka
Thailand
United States of America
Uruguay
Venezuela (Bolivarian Republic of)

Regional economic integration organizations

European Community

United Nations agencies

Food and Agriculture Organization of the United Nations

Regional fisheries management organizations and arrangements

Commission for the Conservation of Antarctic Marine Living Resources
Commission for the Conservation of Southern Bluefin Tuna
General Fisheries Commission for the Mediterranean
Indian Ocean Tuna Commission
Interim Secretariat of the South Pacific Regional Fisheries Management Organisation
International Commission for the Conservation of Atlantic Tunas
North Atlantic Salmon Conservation Organization

North East Atlantic Fisheries Commission
Northwest Atlantic Fisheries Organization[a]
Southeast Asian Fisheries Development Center
South East Atlantic Fisheries Organization
South Pacific Forum Fisheries Agency
Western and Central Pacific Fisheries Commission

[a] The submission of the Northwest Atlantic Fisheries Organization was provided by way of an update to its submission for the report of the Secretary-General on actions taken to give effect to paragraphs 83 to 90 of General Assembly resolution 61/1[illegible] (A/64/305).